TITLE 23—HIGHWAYS

This title was enacted by Pub. L. 85-767, § 1, Aug. 27, 1958, 72 Stat. 885

TITLE REFERRED TO IN OTHER SECTIONS

This title is referred to in title 42 section 7506.

CHAPTER 1—FEDERAL-AID HIGHWAYS

Sec.
113. Prevailing rate of wage.
119. Interstate System resurfacing.
144. Highway bridge replacement and rehabilitation program.
146. Carpool and vanpool projects.
152. Hazard elimination program.
153. Repealed.

CODIFICATION

Item 113 is set out in this supplement to correct typographical error appearing in the main edition.

AMENDMENTS

1978—Pub. L. 95-599, §§ 116(c), 124(b), 168(c), Nov. 6, 1978, 92 Stat. 2699, 2705, 2723, substituted "Interstate System resurfacing" for "Repealed" in item 119, "Highway bridge replacement and rehabilitation program" for "Special bridge replacement program" in item 144, "Hazard elimination program" for "Projects for high-hazard locations" in item 152, and "Repealed" for "Program for the elimination of roadside obstacles" in item 153.

§ 101. Definitions and declaration of policy

(a) As used in this title, unless the context requires otherwise—

The term "apportionment" in accordance with section 104 of this title includes unexpended apportionments made under prior acts.

The term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce) resurfacing, restoration, and rehabilitation, acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas. The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

The term "county" includes corresponding units of government under any other name in States which do not have county organizations, and likewise in those States in which the county government does not have jurisdiction over highways it may be construed to mean any local government unit vested with jurisdiction over local highways.

The term "forest[1] or trail" means a road or trail wholly or partly within, or adjacent to, and serving the National Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources.

The term "forest development roads and trails" means a forest road or trail under the jurisdiction of the Forest Service.

The term "forest highway" means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

The term "highway" includes roads, streets, and parkways, and also includes rights-of-way, bridges, railroad-highway crossings, tunnels, drainage structures, signs, guardrails, and protective structures, in connection with highways. It further includes that portion of any interstate or international bridge or tunnel and the approaches thereto, the cost of which is assumed by a State highway department including such facilities as may be required by the United States Customs and Immigration Services in connection with the operation of an international bridge or tunnel.

The term "Federal-aid highways" means highways located on one of the Federal-aid systems described in section 103 of this title.

The term "highway safety improvement project" means a project which corrects or improves high hazard locations, eliminates roadside obstacles, improves highway signing and pavement marking, or installs traffic control or warning devices at high accident potential locations.

The term "Indian reservation roads and bridges" means roads and bridges, including roads and bridges on the Federal-aid systems, that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.

---

[1] So in original. Probably should be "forest road".

The term "maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures and such traffic-control devices as are necessary for its safe and efficient utilization.

The term "park roads and trails" means those roads or trails, including the necessary bridges, located in national parks or monuments, now or hereafter established, or in other areas administered by the National Park Service of the Department of the Interior (excluding parkways authorized by Acts of Congress) and also including approach roads to national parks or monuments authorized by the Act of January 31, 1931 (46 Stat. 1053), as amended.

The term "parkway" as used in chapter 2 of this title, means a parkway authorized by an Act of Congress on lands to which title is vested in the United States.

The term "project" means an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed.

The term "project agreement" means the formal instrument to be executed by the State highway department and the Secretary as required by the provisions of subsection (a) of section 110 of this title.

The term "public lands development roads and trails" means those roads or trails which the Secretary of the Interior determines are of primary importance for the development, protection, administration, and utilization of public lands and resources under his control.

The term "public lands highways" means those main highways through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, which are on the Federal-aid systems.

The term "public road" means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

The term "rural areas" means all areas of a State not included in urban areas.

The term "Secretary" means Secretary of Transportation.

The term "urbanized area" means an area so designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.

The term "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

The term "State funds" includes funds raised under the authority of the State or any political or other subdivision thereof, and made available for expenditure under the direct control of the State highway department.

The term "State highway department" means that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction.

The term "Federal-aid system" means any one of the Federal-aid highway systems described in section 103 of this title.

The term "Federal-aid primary system" means the Federal-aid highway system described in subsection (b) of section 103 of this title.

The term "Federal-aid secondary system" means the Federal-aid highway system described in subsection (c) of section 103 of this title.

The term "Federal-aid urban system" means the Federal-aid highway system described in subsection (d) of section 103 of this title.

The term "Interstate System" means the National System of Interstate and Defense Highways described in subsection (e) of section 103 of this title.

The term "urban area" means an urbanized area or, in the case of an urbanized area encompassing more than one State, that part of the urbanized area in each such State, or an urban place as designated by the Bureau of the Census having a population of five thousand or more and not within any urbanized area, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Such boundaries shall, as a minimum, encompass the entire urban place designated by the Bureau of the Census, except in the case of cities in the State of Maine and in the State of New Hampshire.

[*See main edition for text of (b) to (e)*]

(As amended Pub. L. 95–599, title I, § 106, Nov. 6, 1978, 92 Stat. 2693.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–599, § 106(a), in definition of "construction" added provision relating to capital improvements.

Pub. L. 95–599, § 106(b)(1), in definition of "forest road or trail", added provisions requiring contingency or service to the National Forest System and necessity for the protection, administration, and utilization thereof.

Pub. L. 95–599, § 106(b)(2), defined "forest development roads or trails" in terms of a forest road or trail under the jurisdiction of the Forest Service rather than in terms of a forest road or trail of primary importance for the protection, administration, and utilization of the national forest or other areas under the jurisdiction of the Forest Service.

Pub. L. 95–599, § 106(b)(3), defined "forest highway" in terms of a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel rather than in terms of a forest road which is of primary importance to the States, counties, or communities contingent to national forests and which is a Federal-aid system.

Pub. L. 95–599, § 106(b)(4), added the definition of "highway safety improvement project".

SHORT TITLE OF 1978 AMENDMENTS

Section 1 of Pub. L. 95–599 provided: "That this Act [enacting sections 119, 146, and 407 of this title, and sections 1602–1, 1607, 1614, 1615, 1616, 1617 and 1618 of Title 49, Transportation, amending sections 101, 103, 104, 105, 109, 111, 116, 118, 120, 122, 124, 125, 129, 131, 134, 141, 144, 148, 151, 152, 154, 155, 215, 217, 219, 320, 402, and 406 of this title, section 1418 of Title 15, Commerce and Trade, section 460*l*–11 of Title 16, Conservation, sections 39, 4041, 4061, 4071, 4081, 4481, 4482, 6156, 6412, 6421, 6427, 7210, 7603, 7604, 7605, 7609, and 7610 of Title 26, Internal Revenue Code, section 201 of the Appendix to Title 40, Public Buildings, Property, and Works, sections 303, 1602, 1603, 1604, 1607b, 1607c, 1608, 1611, 1612, and 1613 of Title 49, repealing section 153 of this title and sections 1607,

1607a, and 1614 of Title 49, and enacting provisions set out as notes under sections 101, 103, 104, 109, 111, 120, 122, 124, 129, 130, 134, 135, 141, 142, 144, 146, 215, 217, 307, 320, 401, 402, and 403 of this title, section 6427 of Title 26, section 201 of the Appendix to Title 40, section 5904 of Title 42, The Public Health and Welfare, section 883 of Title 46, Shipping, and sections 1601, 1602, 1604, 1605, 1612 and 1653 of Title 49] may be cited as the 'Surface Transportation Assistance Act of 1978'."

Section 101 of Pub. L. 95-599 provided that: "This title [enacting sections 119 and 146 of this title, amending sections 101, 103, 104, 105, 109, 111, 116, 118, 120, 122, 124, 125, 129, 131, 134, 141, 144, 148, 151, 152, 155, 203, 215, 217, 219, 320, and 406 of this title and section 201 of the Appendix to Title 40, Public Buildings, Property and Works, repealing section 153 of this title and provisions set out as notes under this section and section 1605 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 101, 103, 104, 109, 111, 120, 122, 124, 129, 130, 134, 135, 141, 142, 144, 146, 217, 307, and 320 of this title section 201 of the Appendix to Title 40, section 5904 of Title 42, section 883 of Title 46, Shipping, and section 1653 of Title 49, Transportation] may be cited as the 'Federal-Aid Highway Act of 1978'."

Section 501 of Pub. L. 95-599 provided that: "This title [amending section 4601-11 of Title 16, Conservation, sections 39, 4041, 4061, 4071, 4081, 4481, 4482, 6156, 6412, 6421, 6427, 7210, 7603, 7604, and 7605 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 120 and 307 of this title and section 6427 of Title 26] may be cited as the 'Highway Revenue Act of 1978'."

Section 108(b) of the Federal-Aid Highway Act of 1956

Section 108(b) of act June 29, 1956, ch. 462, title I, 70 Stat. 378, as amended by Pub. L. 85-381, § 7(a), Apr. 16, 1958, 72 Stat. 93; Pub. L. 86-342, title I, § 102, Sept. 21, 1959, 73 Stat. 611; Pub. L. 87-61, title I § 103, June 29, 1961, 75 Stat. 122; Pub. L. 89-139, § 1, Aug. 28, 1965, 79 Stat. 578; Pub. L. 89-574, § 2, Sept. 13, 1966, 80 Stat. 766; Pub. L. 90-495, § 2, Aug. 23, 1968, 82 Stat. 815; Pub. L. 91-605 title I, §§ 102, 106(b)(1), Dec. 31, 1970, 84 Stat. 1714, 1716; Pub. L. 93-87, title I, § 102. Aug. 13, 1973, 87 Stat. 250; Pub. L. 94-280, title I, § 102(a), May 5, 1976, 90 Stat. 425, Pub. L. 95-599, title I, § 102, Nov. 6, 1978, 92 Stat. 2689, provided that: "For the purpose of expediting the construction, reconstruction, or improvement, inclusive of necessary bridges and tunnels, of the Interstate System, including extensions thereof through urban areas, designated in accordance with the provisions of subsection (e) of section 103 of title 23, United States Code, there is hereby authorized to be appropriated the additional sum of $1,000,000,000 for the fiscal year ending June 30, 1957, which sum shall be in addition to the authorization heretofore made for that year, the additional sum of $1,700,000,000 for the fiscal year ending June 30, 1958, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1959, the additional sum of $2,500,000,000 for the fiscal year ending June 30, 1960, the additional sum of $1,800,000,000 for the fiscal year ending June 30, 1961, the additional sum of $2,200,000,000 for the fiscal year ending June 30, 1962, the additional sum of $2,400,000,000 for the fiscal year ending June 30, 1963, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1964, the additional sum of $2,700,000,000 for the fiscal year ending June 30, 1965, the additional sum of $2,800,000,000 for the fiscal year ending June 30, 1966, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1967, the additional sum of $3,400,000,000 for the fiscal year ending June 30, 1968, the additional sum of $3,800,000,000 for the fiscal year ending June 30, 1969, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1970, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1971, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1972, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1973, the additional sum of $2,600,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,000,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1978, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1979, the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1980, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1981, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1982, the additional sum of $3,200,000,000 for the fiscal year ending September 30, 1983, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1984, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1985, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1986, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1987, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1988, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1990. Nothing in this subsection shall be construed to authorize the appropriation of any sums to carry out sections 131, 136, or 319(b) of title 23, United States Code, or any provision of law relating to highway safety enacted after May 1, 1966. Beginning with funds authorized to be appropriated for fiscal year 1980, no such funds shall be available for projects to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967."

National Transportation Policy Study Commission; Establishment; Termination; Etc.

Section 154 of Pub. L. 94-280 as amended by Pub. L. 95-599, title I, § 137(a), (b)(1), Nov. 6, 1978, 92 Stat. 2710, provided that:

[*See main edition for text of* (a), (b)]

"(c) The Commission shall not later than July 1, 1979 submit to the President and the Congress its final report including its findings and recommendations. The Commission shall cease to exist six months after submission of such report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

[*See main edition for text of* (d) *to* (g)]

"(h)(1) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The personnel shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of their duties as personnel of the Commission. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS-18

of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code.

[See main edition for text of (2), (i) to (k)]

All functions, powers, and duties of the Civil Aeronautics Board, referred to in subsec. (e)(1), were terminated or transferred by section 1551 of Title 49, Transportation, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

Section 137(b)(2) of Pub. L. 95–599 provided that: "The amendment made by paragraph (1) of this subsection [amending section 154(h)(1) of Pub. L. 94–280, set out as a note under this section] shall take effect on May 5, 1976."

CARPOOL DEMONSTRATION PROJECTS IN URBAN AREAS; APPROPRIATIONS AUTHORIZATION

Section 120(b) of Pub. L. 93–643, relating to grants for demonstration projects designed to encourage the use of carpools in urban areas, was repealed by Pub. L. 95–599, title I, § 126(b), Nov. 6, 1978, 92 Stat. 2706. See section 146 of this title.

EMERGENCY HIGHWAY ENERGY CONSERVATION

Pub. L. 93–239, §§ 1 to 3, Jan. 2, 1974, 87 Stat. 1046, as amended Pub. L. 93–643, §§ 114(c), 120(a), Jan. 4, 1975, 83 Stat. 2286, 2289; Pub. L. 94–280, title I, § 143, May 5, 1976, 90 Stat. 445; Pub. L. 95–599, title I, § 126(b), Nov. 6, 1978, 92 Stat. 2706, provided:

[See main edition for text of Secs. 1 and 2]

"Sec. 3. [Repealed. Pub. L. 95–599, title I, § 126(b), Nov. 6, 1978, 92 Stat. 2706.]"

USE OF ARTICLES MINED OR MANUFACTURED IN THE UNITED STATES

Section 401 of Pub. L. 95–599 provided that:

"(a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act [see Short Title note set out above] or by any Act amended by this Act and administered by the Department of Transportation, whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.

"(b) The provisions of subsection (a) of this section shall not apply where the Secretary determines—

"(1) their application would be inconsistent with the public interest;

"(2) in the case of acquisition of rolling stock their application would result in unreasonable cost (after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues;

"(3) supplies of the class or kind to be used in the manufacture of articles, materials, supplies that are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

"(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum."

§ 103. Federal-aid systems

[See main edition for text of (a) to (d)]

(e) [See main edition for text of (1)]

(2) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System of five hundred miles, to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the request of a State highway department the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of interstate routes or portions thereof as provided in this subsection. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any Interstate route or portion thereof under authority of this paragraph after the date of enactment of the Federal Aid Highway Act of 1978.

[See main edition for text of (3)]

(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System which is within an urbanized area or which passes through and connects urbanized areas within a State and which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of enactment of the Federal-Aid Highway Act of 1976 or the date of approval of each substitute project under this paragraph, whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost estimate, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment includ-

ing rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the urbanized area and the connecting nonurbanized area corridor from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located. Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1983, and the Secretary shall not approve any withdrawal of a route under this paragraph after such date, except that this sentence shall not apply to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction [1] Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 per centum of the cost thereof. The sums available for obligation shall remain available until obligated. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph such sums as may be necessary out of the general fund of the Treasury. Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1976 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal-Aid Highway Act of 1976, shall be effective as of August 13, 1973. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title. After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph.

(5) Notwithstanding any other provision of law, in the case of any withdrawal of approval before November 6, 1978—

(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest on condition that the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

(6) Notwithstanding any other provision of law—

(A) in the case of any withdrawal of approval on or after November 6, 1978, of a route or portion thereof on the Interstate System, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

(B) in the case of any withdrawal of approval on or after November 6, 1978, of any route or portion thereof on the Interstate System under this section, a State shall not be required to refund to the Highway Trust Fund the costs of construction items, materials, or rights-of-way of the withdrawn route or portion thereof if such items, materials, and rights-of-way were acquired before November 6, 1978, if by the date of withdrawal of approval the Secretary has not approved the environmental impact statement required by the National Environmental Policy Act of 1969, and if such construction items, materials, or rights-of-way will be or have been ap-

[1] So in original. There probably should be a period.

plied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to any other public purpose determined by the Secretary to be in the public interest on condition that the State gives assurances satisfactory to the Secretary that such construction items, materials, or rights-of-way have been or will be so applied by the State, or any political subdivision thereof, to a project under clause (i), (ii), or (iii) within ten years from the date of withdrawal of approval;

(7) In any case where a withdrawal of approval of a route or portion thereof on the Interstate System on or after November 6, 1978, does not come within the provisions of paragraph (6)(B) of this subsection, the State shall refund to the Highway Trust Fund the costs of construction items, materials, and rights-of-way of the withdrawn route or portion thereof, except that if the State gives assurances satisfactory to the Secretary that such items, materials, and rights-of-way have been or will be applied to a transportation project permissible under this title within ten years from the date of withdrawal of approval, the amount of such repayment shall be the difference between the amount received for such items, materials, and rights-of-way and the amount which would be received in accordance with the current Federal share applicable to the transportation project to which such items, materials, and rights-of-way were or are to be applied; and

(8) Nothing in this subsection shall in any way alter rights under State law of persons owning property within the right-of-way immediately prior to such property being obtained by the State. The Federal share of the cost of property sold or otherwise transferred to previous owners under State law shall be refunded and credited to the unobligated balance of the State's apportionment for interstate highways.

(9) Interstate mileage authorized for any State and withdrawn and transferred under the provisions of paragraph (2) of this subsection after the date of enactment of the Federal-Aid Highway Act of 1976, must be constructed by the State receiving such mileage as part of its Interstate System. Any State receiving such transfer of mileage may not, with respect to that transfer, avail itself of the optional use of Interstate funds under the second sentence of paragraph (4) of this subsection.

[See main edition for text of (f) to (h)]

(As amended Pub. L. 95-599, title I, § 107(a), (b), (f)(1), Nov. 6, 1978, 92 Stat. 2694, 2695; Pub. L. 96-106, §§ 1, 2(a), (c), Nov. 9, 1979, 93 Stat. 796; Pub. L. 96-144, § 2, Dec. 13, 1979, 93 Stat. 1084.)

REFERENCES IN TEXT

The date of enactment of the Federal-Aid Highway Act of 1978, referred to in subsec. (e)(2) and (4), means the date of enactment of Pub. L. 95-599, which was approved Nov. 6, 1978.

The date of enactment of this sentence, referred to in subsec. (e)(4), is Nov. 6, 1978.

Section 3(e)(4) of the Urban Mass Transportation Act of 1964, referred to in subsec. (e)(4), is classified to section 1602(e)(4) of Title 49, Transportation.

The National Environmental Policy Act of 1969, referred to in subsec. (e)(6), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1979—Subsec. (e)(4). Pub. L. 96-144 provided that after Sept. 30, 1979, the Secretary shall not withdraw his approval under par. (4) of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal, and that any withdrawal of approval of any such route or portion thereof before Sept. 30, 1979, is determined to be authorized by par. (4).

Pub. L. 96-106, § 1, added provision that the preceding sentence not apply to a designation made under section 139 of this title.

Subsec. (e)(5). Pub. L. 96-106, § 2(a), inserted ", in the case of any withdrawal of approval before November 6, 1978" following "any other provision of law".

Subsec. (e)(6). Pub. L. 96-106, § 2(c), added par. (6). Former par. (6) redesignated (8).

Subsec. (e)(7). Pub. L. 96-106, § 2(c), added par. (7). Former par. (7) redesignated (9).

Subsec. (e)(8). Pub. L. 96-106, § 2(c), redesignated former par. (6) as (8).

Subsec. (e)(9). Pub. L. 96-106, § 2(c), redesignated former par. (7) as (9).

1978—Subsec. (e)(2). Pub. L. 95-599, § 107(a)(1), substituted provisions relating to the deadline for designation of Interstate routes for provisions relating to maximum costs of all mileage and granting of preferences.

Subsec. (e)(4). Pub. L. 95-599, § 107(a)(2), (b), (f)(1)(A), substituted provision setting the maximum Federal share at 85 per cent of the cost of the substitute project for provision stating that the share would be determined in accordance with section 120 of this title, added provisions related to deadline for approval by Secretary and designation of mileage, and struck out provision related to withdrawal of approval.

Subsec. (e)(5) to (7). Pub. L. 95-599, § 107(f)(1)(B), (C), redesignated par. (5) as (7) and added pars. (5) and (6).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 107(c) of Pub. L. 95-599 provided that: "The amendment made by subsection (a) of this section [amending subsec. (e) of this section] shall apply to each route or portion thereof designated under section 103(e)(2) of title 23, United States Code, before January 1, 1978, the construction of which was not complete on such date, and the Secretary of Transportation shall make such revisions in existing contracts and agreements as may be necessary to carry out this section and the amendment made by subsection (a) of this section."

Section 107(f)(2) of Pub. L. 95-599, which provided that the amendments made by section 107(f)(1) of Pub. L. 95-599 to subsec. (e)(4) to (7) of this section apply to any withdrawal of approval before Nov. 6, 1978, was repealed by Pub. L. 96-106, § 2(b), Nov. 9, 1979, 93 Stat. 796.

WITHDRAWAL OF SECRETARY'S APPROVAL OF ROUTE OR PORTION OF ROUTE ON INTERSTATE SYSTEM BETWEEN JUNE 20, 1979, AND JUNE 30, 1979, INCLUSIVE; SUBSTITUTION OF PROJECTS

Section 3 of Pub. L. 96-144 provided that: "Notwithstanding the amendment made to section 103(e)(4) of title 23, United States Code, by the preceding section, in the case where the Secretary has withdrawn his approval of a route or portion thereof on the Interstate System under such section between June 20, 1979, and June 30, 1979, both dates inclusive, the sum available to the Secretary of Transportation to incur obligations for projects substituted for such withdrawn route or portion thereof shall be a sum equal to the Federal

share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the 1975 Interstate System cost estimate, as approved by Congress, subject to increase or decrease as determined by the Secretary based on changes in the construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under section 103(e)(4) of title 23, United States Code."

NECESSITY OF ENVIRONMENTAL IMPACT STATEMENT PRIOR TO ROUTE CONSTRUCTION ON NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Section 107(d) of Pub. L. 95-599 provided that: "Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on the National System of Interstate and Defense Highways with respect to which an environmental impact statement has not been submitted to the Secretary of Transportation in accordance with the National Environmental Policy Act of 1969 [section 4321 et seq. of title 42, The Public Health and Welfare] by September 30, 1983. Any such route or portion thereof shall thereupon be removed from designation as part of such Interstate System."

TIME LIMIT FOR COMMENCEMENT OF, OR CONTRACT FOR, CONSTRUCTION; REMOVAL FROM DESIGNATION AS PART OF INTERSTATE SYSTEM

Section 107(e) of Pub. L. 95-599 provided that: "By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary of Transportation finds that sufficient Interstate authorizations are available) and all Interstate substitute projects pursuant to subsection (e)(4) of section 103 of title 23, United States Code (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction or construction must have commenced. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof not complying with this subsection and in the case of a substitute project the Secretary shall withdraw approval and no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 124, 129, 139 of this title; title 49 sections 1602a, 1603.

§ 104. Apportionment

[*See main edition for text of* (a)]

(b) On October 1 of each fiscal year except as provided in paragraphs (4) and (5) of this subsection, the Secretary, after making the deduction authorized by subsection (a) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure upon the Federal-aid systems for that fiscal year, among the several States in the following manner:

[*See main edition for text of* (1) *to* (4)]

(5)(A) Except as provided in subparagraph (B)—For the Interstate System for the fiscal years 1960 through 1990:

For the fiscal years 1960 through 1966, in the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of completing the Interstate System in all of the States. For the fiscal years 1967 through 1990, in the ratio which the Federal share of the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of the Federal share of completing the Interstate System in all of the States. Each apportionment herein authorized for the fiscal years 1960 through 1990, inclusive, shall be made on October 1 of the year preceding the fiscal year for which authorized. As soon as the standards provided for in subsection (b) of section 109 of this title have been adopted, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this section, based upon such standards and in accordance with rules and regulations adopted by him and applied uniformly to all of the States. The Secretary shall transmit such estimates to the Senate and the House of Representatives within ten days subsequent to January 2, 1958. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1960, June 30, 1961, and June 30, 1962. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1961. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1963, June 30, 1964, June 30, 1965, and June 30, 1966. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1968. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1970, and June 30, 1971. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate

System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives on April 20, 1970. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1972, and June 30, 1973. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1972. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making the apportionment for the fiscal year ending September 30, 1977. The Secretary shall make the apportionment for the fiscal year ending September 30, 1978 in accordance with section 103 of the Federal-Aid Highway Act of 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1979. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 30, 1988. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1987. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1989, and September 30, 1990. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives. The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967.

(B) For resurfacing, restoring, and rehabilitating the Interstate System:

Seventy-five per centum in the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 25 per centum in the ratio that vehicle miles traveled on lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States.

[*See main edition for text of (6); (c)*]

(d) Each transfer of apportionments under subsection (c) of this section shall be subject to the following conditions:

(1) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

(2) In the case of transfers under paragraph (2), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

[*See main edition for text of (3) and (4); (e) to (g)*]

(h) The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year.

(As amended Pub. L. 95-599, title I, §§ 108-110, 116(b), Nov. 6, 1978, 92 Stat. 2695, 2696, 2699.)

REFERENCES IN TEXT

Section 105 of the Federal-Aid Highway Act of 1978, referred to in subsec. (b)(5)(B), is section 105 of title I of Pub. L. 95-599, which was not classified to the Code.

The date of enactment of this subsection, referred to in subsec. (h), is Nov. 6, 1978, the date of enactment of Pub. L. 95-599.

AMENDMENTS

1978—Subsec. (b)(5)(A). Pub. L. 95-599, § 108, added provision relating to deadline for inclusion of estimate.

Subsec. (b)(5)(B). Pub. L. 95-599, § 116(b), substituted provisions limiting apportionment of funds ratio to seventy-five percent of lane miles ratio and twenty-five of miles traveled ratio for provision establishing a straight ratio for such apportionment.

Subsec. (d). Pub. L. 95-599, § 109, substituted "50" for "40" and "20" wherever appearing.

Subsec. (h). Pub. L. 95-599, § 110, added subsec. (h).

APPORTIONMENT FACTORS FOR EXPENDITURES ON NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS FOR FISCAL YEARS ENDING SEPTEMBER 30, 1981, AND SEPTEMBER 30, 1982

Pub. L. 96-144, § 1, Dec. 13, 1979, 93 Stat. 1084, provided: "That the Secretary of Transportation shall apportion for the fiscal year ending September 30, 1981, and the fiscal year ending September 30, 1982, the sums authorized to be appropriated for such fiscal years by section 108(b) of the Federal-Aid Highway Act of 1956, as amended [set out as a note under section 101 of this title], for expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of Committee Print 96-15 of the Committee on Public Works and Transportation of the House of Representatives."

APPORTIONMENT FACTORS FOR EXPENDITURES ON NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1980

Section 103 of Pub. L. 95-599 provided that: "The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1980, the sums authorized to be appropriated for such periods by section 108(b) of the Federal-Aid Highway Act of 1956 [act June 29, 1956, ch. 462, title I, § 108(b), 70 Stat. 378, set out as a note under section 101 of this title], as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives."

PERCENTAGE OF TOTAL APPORTIONMENT TO EACH STATE FOR FISCAL YEARS 1980, 1981, 1982 AND 1983; EXPENDITURE OF EXCESS AMOUNTS; APPROPRIATIONS AUTHORIZATION

Section 104(b)(1) of Pub. L. 95-599 provided that: "For each of the fiscal years 1980, 1981, 1982, and 1983, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, and rehabilitation of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), (6) of such section 104(b) may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code. In order to carry out this subsection, and section 158 of the Federal-Aid Highway Act of 1973, there are authorized to be appropriated, out of the Highway Trust Fund, not to exceed $125,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 101, 115, 116, 118, 119, 120, 126, 129, 130, 131, 136, 140, 141, 142, 146, 150, 152, 154, 208, 217, 307, 309, 311, 321 of this title.

§ 105. Programs

[*See main edition for text of (a)*]

(b) In approving programs for projects on the Federal-aid secondary system, the Secretary shall require that such projects be selected by the State highway department and the appropriate local officials in cooperation with each other, except in States where all public roads and highways are under the control and supervision of the State highway department such selection shall be made after consultation with appropriate local officials.

[*See main edition for text of (c) to (f)*]

(g) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments shall give consideration to projects providing direct and convenient public access to public airports, public

ports for water transportation, new town communities, and new town-intown communities, and in approving such programs the Secretary shall give consideration to such projects.

(As amended Pub. L. 95-599, title I, §§ 111, 112, Nov. 6, 1978, 92 Stat. 2696.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-599, § 111, added provision relating to selection of program projects after consultation with local officials in situations where public roads and highways are under control and supervision of State highway departments.

Subsec. (g). Pub. L. 95-599, § 112, substituted "public airports, public ports for water transportation, new town communities, and new town-intown communities," for "public airports and public ports for water transportation,".

§ 107. Acquisition of rights-of-way—Interstate System

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1770.

§ 109. Standards

[*See main edition for text of* (a) *to* (e)]

(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, bikeways, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

[*See main edition for text of* (g) *to* (k)]

(l)(1) In determining whether any right-of-way on any Federal-aid system should be used for accommodating any utility facility, the Secretary shall—

(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect safety;

(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

(2) For the purpose of this subsection—

(A) the term "utility facility" means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

(B) the term "right-of-way" means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.

(m) The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed. The initial guidelines shall be issued no later than October 1, 1979.

(n) The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.

(As amended Pub. L. 95-599, title I, §§ 113, 116(d), 141(f), (g), Nov. 6, 1978, 92 Stat. 2696, 2699, 2711; Pub. L. 96-106, § 3, Nov. 9, 1979, 93 Stat. 797.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (j), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

AMENDMENTS

1979—Subsec. (l)(1)(A). Pub. L. 96-106 struck out "any aspect of" following "adversely affect".

1978—Subsec. (f). Pub. L. 95-599, § 141(f), inserted "bikeways" following "surfaces, median strips,".

Subsec. (l). Pub. L. 95-599, § 113, added subsec. (l).

Subsec. (m). Pub. L. 95-599, § 116(d), added subsec. (m).

Subsec. (n). Pub. L. 95-599, § 141(g), added subsec. (n).

EXPENDITURE OF FEDERAL FUNDS FOR HIGHWAY SIGNS USING METRIC SYSTEM

Section 144 of Pub. L. 95-599, as amended by Pub. L. 96-106, § 14, Nov. 9, 1979, 93 Stat. 798, provided that:

"(a) No Federal funds may be expended to construct, erect, or otherwise place any sign relating to any speed limit, any distance, or other measurement, on any highway if such sign establishes such speed limit, distance, or other measurement solely using the metric system, unless Congress after the date of enactment of this Act [Nov. 6, 1978] specifically authorizes such expenditure.

"(b) No Federal funds may be expended to modify any sign relating to any speed limit, any distance, or any other measurement on any highway for the conversion of such sign solely to the metric system unless Congress, after the date of the enactment of this Act [Nov. 6, 1978] specifically authorizes such expenditure.

"(c) For purposes of subsections (a) and (b)—

"(1) the term 'highway' means a highway as defined in section 101 of title 23, United States Code, and

"(2) the term 'metric system' means metric system of measurement as defined in section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

"(d) This section shall not apply to the Commonwealth of Puerto Rico."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 106, 115, 117, 119, 142 of this title.

§ 111. Agreements relating to use of and access to rights-of-way—Interstate System

All agreements between the Secretary and the State highway department for the construction of projects on the Interstate System shall contain a clause providing that the State will not add any points of access to, or exit from, the project in addition to those approved by the Secretary in the plans for such project, without the prior approval of the Secretary. Such agreements shall also contain a clause providing that the State will not permit automotive service stations or other commercial establishments for serving motor vehicle users to be constructed or located on the rights-of-way of the Interstate System. Such agreements may, however, authorize a State or political subdivision thereof to use or permit the use of the airspace above and below the established grade line of the highway pavement for such purposes as will not impair the full use and safety of the highway, as will not require or permit vehicular access to such space directly from such established grade line of the highway, or otherwise interfere in any way with the free flow of traffic on the Interstate System. Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.

(As amended Pub. L. 95-599, title I, § 114, Nov. 6, 1978, 92 Stat. 2697.)

AMENDMENTS

1978—Pub. L. 95-599 added provision listing situations which would not require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users.

DEMONSTRATION PROJECT FOR VENDING MACHINES IN REST AND RECREATION AREAS

Section 153 of Pub. L. 95-599 provided that: "The Secretary of Transportation shall carry out a demonstration project on the Interstate System, which, notwithstanding section 111 of title 23, United States Code, would permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on the rights-of-way of such System. The vending machines shall dispense such food, drink, and other articles as the Secretary of Transportation determines necessary to ascertain the need for, and desirability of, this service to the traveling public. The Secretary of Transportation shall report to Congress not later than two years after the date of enactment of this section [Nov. 6, 1978] on the results of the demonstration project authorized by this section together with any recommendations he deems necessary."

§ 113. Prevailing rate of wage

CODIFICATION

Section catchline is set out in this supplement to correct typographical error appearing in the main edition.

§ 115. Construction by States in advance of apportionment

[*See main edition for text of* (a)]

(b)(1) When a State proceeds to construct any project on the Interstate System without the aid of Federal funds, as that System may be designated at that time, in accordance with all procedures and all requirements applicable to projects on such System, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the cost of construction of such project when additional funds are apportioned to such State under section 104 of this title if—

(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects on the Interstate System, and

(B) the project conforms to the applicable standards under section 109 of this title.

(2) For any project under construction on January 1, 1978, on the Interstate System and converted to a regularly funded project after January 1, 1978, for which the proceeds of bonds issued by the State, county, city, or other political subdivision of the State were used, any interest earned and payable on such bonds by the date of conversion is an eligible cost of construction, to the extent that the proceeds of such bonds have actually been expended in the construction of such projects.

[*See main edition for text of* (c)]

(As amended Pub. L. 96-106, § 4, Nov. 9, 1979, 93 Stat. 797.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-106 designated existing provisions as par. (1) and cls. (1) and (2) thereof as subpars. (A) and (B) and added par. (2).

§ 116. Maintenance

[*See main edition for text of* (a) *to* (c)]

(d) The Secretary in consultation with the State highway departments and interested and knowledgeable private organizations and individuals shall as soon as possible establish national bridge inspection standards in order to provide for the proper safety inspection of bridges. Such standards shall specify in detail the method by which inspections shall be conducted by the State highway departments, the maximum time lapse between inspections and the qualifications for those charged with the responsibility for carrying out such inspections. Each State shall be required to maintain written reports to be available to the Secretary pursuant to such inspections together with a nota-

tion of the action taken pursuant to the findings of such inspections. Each State shall be required to maintain a current inventory of all bridges.

[*See main edition for text of* (e)]

(As amended Pub. L. 95-599, title I, § 124(d), Nov. 6, 1978, 92 Stat. 2705.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-599 struck out provisions limiting provisions of the subsection to the Federal-aid system.

§ 118. Availability of sums apportioned

[*See main edition for text of* (a)]

(b) Sums apportioned to each Federal-aid system (other than the Interstate System) shall continue available for expenditure in that State for the appropriate Federal-aid system or part thereof (other than the Interstate System) for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse. Except as provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence must be made available by the Secretary to any other State applying for such funds for the Interstate System, if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (1) obligate the funds within one year of the date the funds are made available; (2) apply them to a ready-to-commence project; and (3) in the case of construction work, begin work within ninety days of obligation. Sums made available under this subsection shall remain available until expended. Any amount apportioned to the States for the Interstate System under subsection (b)(5)(B) of section 104 of this title shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse. Sums apportioned to a Federal-aid system for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is obligated. Any Federal-aid highway funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds, primary, secondary, urban, or interstate, previously apportioned to the State and be immediately available for expenditure.

[*See main edition for text of* (c) *and* (d)]

(As amended Pub. L. 95-599, title I, § 115(a), Nov. 6, 1978, 92 Stat. 2697; Pub. L. 96-106, § 5(a), Nov. 9, 1979, 93 Stat. 797.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-106 substituted "shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse" for "remaining unexpended at the end of the period of its availability shall lapse".

1978—Subsec. (b). Pub. L. 95-599 substituted provisions relating to the availability of funds until the end of the fiscal year for provisions relating to the availability of funds until two years after the close of the fiscal year and substituted provisions establishing requirements for eligibility for funds for provisions calling for immediate reapportionment of unexpended funds.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 5(b) of Pub. L. 96-106 provided that: "The amendment made by subsection (a) of this section [amending this section] shall apply to all amounts apportioned under section 104(b)(5)(B) of title 23, United States Code, for the fiscal year 1978 and for subsequent fiscal years."

§ 119. Interstate System resurfacing

(a) Beginning with funds apportioned for fiscal year 1980, the Secretary may approve projects for resurfacing, restoring, and rehabilitating those lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978). Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title and the Federal share shall be that set forth in section 120(a) of this title.

(b) Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate system in accordance with such guidelines. Each State shall certify on January 1st of each year that it has such a program and the Interstate system is maintained in accordance with that program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate system in accordance with such program then the next apportionment of funds to such State for the Interstate system shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate system in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period the amount so withheld shall be reapportioned to all other eligible States.

(Added Pub. L. 95-599, title I, § 116(a), Nov. 6, 1978, 92 Stat. 2698; Pub. L. 96-106, § 18, Nov. 9, 1979, 93 Stat. 799.)

REFERENCES IN TEXT

Section 105 of the Federal-Aid Highway Act of 1978, referred to in subsec. (a), is section 105 of Pub. L. 95-599, which was not classified to the Code.

PRIOR PROVISIONS

A prior section 119, Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 899, related to the administration of Federal aid for highways in Alaska, and was repealed by Pub. L. 86-70, § 21(d)(3), June 25, 1959, 73 Stat. 145.

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-106 substituted "January 1st" for "October 1st" and "next apportionment of funds to such State" for "funds apportioned to such State for that fiscal year".

§ 120. Federal share payable

(a) Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary system, and the Federal-aid urban system shall either (A) not exceed 75 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area, or (B) not exceed 75 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that the Federal share payable on any project in a State shall not exceed 95 per centum of the total cost of any such project. In any case where a State elects to have the Federal share provided in clause (B) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring such State to use solely for highway construction purposes (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in clause (B) and what its share would be if it elected to pay the share provided in clause (A) for all projects subject to such agreement.

[*See main edition for text of* (b) *and* (c)]

(d) The Federal share payable on account of any project for the elimination of hazards of railway-highway crossings, as more fully described and subject to the conditions and limitations set forth in section 130 of this title, and for any project for traffic control signalization, may amount to 100 per centum of the cost of construction of such projects, except that not more than 75 per centum of the right-of-way and property damage costs, paid from public funds, on any such project, may be paid from sums apportioned in accordance with section 104 of this title: *Provided*, That not more than 10 per centum all the sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.

[*See main edition for text of* (e)]

(f) The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125 of this title shall not exceed 75 per centum of the cost thereof: *Provided*, That, in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area: *Provided further*, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof, whether or not such highways, roads or trails are on any Federal-aid highway systems. The Secretary may increase the Federal share payable on account of any repair or reconstruction under this section up to 100 per centum of the replacement cost of a comparable facility if he determines it is in the public interest. As used in this section with respect to bridges and in section 144 of this title, "a comparable facility" shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life. Any project agreement for which the final voucher has not been approved by the Secretary on or before the date of this Act may be modified to provide for the Federal share authorized herein.

[*See main edition for text of* (g) *and* (h)]

(i) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.

(As amended Pub. L. 95-599, title I, §§ 117, 129(a)-(c), (i), Nov. 6, 1978, 92 Stat. 2699, 2707, 2708.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-599, § 129(a), substituted "75 per centum" for "70 per centum" wherever appearing.

Subsec. (d). Pub. L. 95-599 §§ 117, 129(b), inserted "and for any project for traffic control signalization,"

following "section 130 of this title,", and substituted "75 per centum" for "70 per centum."

Subsec. (f). Pub. L. 95-599, § 129(c), substituted "75 per centum" for "70 per centum" wherever appearing.

Subsec. (i). Pub. L. 95-599, § 129(i), added subsec. (i).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 129(h) of Pub. L. 95-599 provided that: "The amendments made by subsections (a) through (g) of this section [amending sections 120, 148, 155, 215, and 406 of this title] shall take effect with respect to obligations incurred after the date of enactment of this section [Nov. 6, 1978]."

REVIEW AND ANALYSIS OF EXCISE TAXES DEDICATED TO HIGHWAY TRUST FUND

Section 507 of Pub. L. 95-599, provided that:

"(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall—

"(1) review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as ease or difficulty of administration of such tax and the compliance burdens imposed on taxpayers by such tax, and

"(2) on or before April 15, 1982, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate as to the matters set forth in paragraph (1) and other findings, as well as recommendations on—

"(A) improvements in excise taxation which would enhance tax administration, equity, and compliance, or

"(B) a new system of raising revenues to fund the Highway Trust Fund which would meet the objectives set forth in subparagraph (A).

The recommendations described in paragraph (2) shall be formulated in conjunction with the recommendations of the cost allocation study under section 506 set out as note under section 307 of this title of the equitable distribution of the highway excise taxes.

"(b) INTERIM REPORT.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on or before April 15, 1980, and a second interim report on or before April 15, 1981."

HIGHWAY TRUST FUND

Section 209 of act June 29, 1956, c. 462, title II, 70 Stat. 397, as amended by Pub. L. 86-342, title II, § 202, Sept. 21, 1959, 73 Stat. 615; Pub. L. 86-346, title I, § 104(5), Sept. 22, 1959, 73 Stat. 622; Pub. L. 86-440, § 1(c), Apr. 22, 1960, 74 Stat. 81; Pub. L. 87-61, title II, § 207, June 29, 1961, 75 Stat. 128; Pub. L. 88-578, title II, § 202, Sept. 3, 1964, 78 Stat. 904; Pub. L. 89-44, title II, § 210, title VIII, § 809(e), June 21, 1965, 79 Stat. 144, 168; Pub. L. 91-258, title II, §§ 207(e), 208(g), May 21, 1970, 84 Stat. 249, 252; Pub. L. 91-605, title III, § 301, Dec. 31, 1970, 84 Stat. 1743; Pub. L. 94-273, § 18, Apr. 21, 1976, 90 Stat. 379; Pub. L. 94-280, title III, § 301, May 5, 1976, 90 Stat. 456; Pub. L. 95-599, title V, §§ 503(a), 504(a), Nov. 6, 1978, 92 Stat. 2757; Pub. L. 95-618, title II, § 233(b)(2)(E), Nov. 9, 1978, 92 Stat. 3191, provided that:

[See main edition for text of (a) and (b)]

"(c) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

"(1) IN GENERAL.—There is hereby appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the following percentages of the taxes received in the Treasury before October 1, 1984, under the following provisions of the Internal Revenue Code of 1954 (or under the corresponding provisions of prior revenue laws)—

[See main edition for text of (A) to (H), concluding par.; (2)]

"(3) LIABILITIES INCURRED BEFORE OCTOBER 1, 1984, FOR NEW OR INCREASED TAXES.—There is hereby appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the following percentages of the taxes which are received in the Treasury after September 30, 1984, and before July 1, 1985, and which are attributable to liability for tax incurred before October 1, 1984, under the following provisions of the Internal Revenue Code of 1954—

[See main edition for text of (A) to (D), (4) and (5); (d)]

"(e) MANAGEMENT OF TRUST FUND.—

"(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Commerce [Secretary of Transportation] to report to the Congress not later than the first day of June of each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter up to and including the fiscal year ending September 30, 1985. Such report shall be printed as a House document of the session of the Congress to which the report is made.

[See main edition for text of (2) to (4)]

"(f) EXPENDITURES FROM TRUST FUND.—

"(1) FEDERAL-AID HIGHWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures after June 30, 1956, and before October 1, 1984, to meet those obligations of the United States heretofore or hereafter incurred under the Federal-Aid Road Act approved July 11, 1916, as amended and supplemented, which are attributable to Federal-Aid highways (including those portions of general administrative expenses of the Bureau of Public Roads payable from such appropriations).

[See main edition for text of (2)]

"(3) TRANSFERS FROM TRUST FUND FOR GASOLINE AND LUBRICATING OIL USED FOR CERTAIN PURPOSES.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid before July 1, 1985, under sections 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and 6424 (relating to amounts paid in respect of lubricating oil used for certain nontaxable purposes) of the Internal Revenue Code of 1954 on the basis of claims filed for periods beginning after June 30, 1956, and ending before October 1, 1984. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under section 6421 of such Code with respect to gasoline used after December 31, 1964, in motorboats. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under sections 6420 and 6421 of such Code with respect to gasoline used after June 30, 1970, in aircraft.

"(4) 1972 FLOOR STOCKS REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the following percentages of the floor stocks refunds made before July 1, 1985, under section 6412(a)(2) of the Internal Revenue Code of 1954—

[See main edition for text of (A) to (C); (5)]

"(6) TRANSFERS FROM THE TRUST FUND FOR INCOME TAX CREDITS ALLOWED FOR CERTAIN USES OF GASOLINE, SPECIAL FUELS, AND LUBRICATIING OIL.—The Secretary of the

Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 of the Internal Revenue Code of 1954 [section 39 of Title 26, Internal Revenue Code] (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) with respect to gasoline, special fuels, and lubricating oil used before October 1, 1964. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the credits allowed." This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as attributable to the use after June 30, 1970, of gasoline and special fuels in aircrafts.

"(7) TRANSFERS FROM TRUST FUND FOR NONTAXABLE USES OF FUELS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid before July 1, 1985, under section 6427 of the Internal Revenue Code of 1954 [section 6427 of Title 26] (relating to fuels not used for taxable purposes) on the basis of claims filed for fuels used before October 1, 1984. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under such section 6427 with respect to fuels used in aircraft.

"(g) ADJUSTMENTS OF APPORTIONMENTS.—

"(1) ESTIMATES OF AMOUNT AVAILABLE FOR EXPENDITURE.—The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation, estimate the amounts which will be available in the Trust Fund (excluding repayable advances) to defray the expenditures which will be required to be made from the Trust Fund.

"(2) INITIAL PROCEDURE WHERE THERE IS SHORTFALL.—If the Secretary of the Treasury determines that, after all other expenditures required to be made from the Trust Fund have been defrayed, the amounts which will be available in the Trust Fund (excluding repayable advances) will be insufficient to defray the expenditures which will be required as a result of the apportionment to the States of the amounts authorized to be appropriated from the Trust Fund for any fiscal year—

"(A) he shall so advise the Secretary of Transportation, and

"(B) he shall further advise the Secretary of Transportation as to the amount which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available in the Trust Fund (excluding repayable advances) to defray the expenditures required as a result of the apportionment to the States for such fiscal year.

"(3) DETERMINATION OF PERCENTAGE.—The Secretary of Transportation shall determine the percentage which the amount referred to in paragraph (2)(B) is of the amount authorized to be appropriated from the Trust Fund for such fiscal year for apportionment to the States.

"(4) ADJUSTMENT OF APPORTIONMENTS.—Notwithstanding any other provision of law, the Secretary of Transportation shall (after determining a percentage for a fiscal year under paragraph (3)) apportion to the States for such fiscal year (in lieu of the amount which but for the provisions of this subsection would be so apportioned) the amount obtained by multiplying the amount authorized to be appropriated for such fiscal year by such percentage.

"(5) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—Whenever the Secretary of the Treasury determines that there will be available in the Trust Fund (excluding repayable advances) amounts which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available to defray the expenditures required as a result of the apportionment of funds previously withheld from apportionment for any fiscal year, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing expenditures from the Trust Fund to exceed amounts available in the Trust Fund (excluding repayable advances) to defray such expenditures. Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence."

Section 504(b) of Pub. L. 95-599 provided that: "The amendment made by subsection (a) [amending subsec. (g) of section 209 of Act June 29, 1956] shall apply to fiscal years beginning after September 30, 1978."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 107, 108, 119, 121, 122, 125, 130, 142, 147, 148, 154, 217, 307 of this title; title 42 sections 3338, 4519.

§ 122. Payment to States for bond retirement

Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System, or extensions of any of the Federal-aid highway systems in urban areas, may claim payment of any portion of the sums apportioned to it for expenditure on such system to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects. Such claim for payment may be made only when all of the provisions of this title have been complied with to the same extent and with the same effect as though payment were to be made to the State under section 121 of this title, instead of this section, and the Federal share payable shall not exceed the pro rata basis of payment authorized in section 120 of this title. This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.

(As amended Pub. L. 95-599, title I, § 115(b), Nov. 6, 1978, 92 Stat. 2698.)

AMENDMENTS

1978—Pub. L. 95-599 added provisions relating to the retirement of bonds the proceeds of which were used for program projects, provisions that section was not to be construed as a commitment on the part of the United States to pay the principal of any such bonds, and provisions prohibiting inclusion of interest and incidental costs of bonds in estimated cost of completion.

PAYMENT OF INTEREST ON BONDS ISSUED PRIOR TO AND AFTER NOVEMBER 6, 1978

Section 115(c) of Pub. L. 95-599 provided that: "No interest shall be paid under authority of section 122 of title 23, United States Code, on any bonds issued prior to the date of enactment of this Act [Nov. 6, 1978], unless such bonds were issued for projects which were under construction on January 1, 1978. Interest on bonds issued in any fiscal year by a State after the date of enactment of this Act may be paid under authority of section 122 of title 23, United States Code, only if (1) such State was eligible to obligate fund of another State under subsection (a) of this section during such fiscal year and (2) the Secretary of Transportation certifies that such eligible State utilized, or will utilize, to the fullest extent possible during such fiscal year its authority to obligate funds under such subsection (a) of this section [amending section 118(b) of this title]. No interest shall be paid under section 122 of title 23, United States Code, on that part of the proceeds of bonds issued after the date of enactment of this Act used to retire or otherwise refinance bonds issued prior to such date."

§ 124. Advances to States

(a) If the Secretary shall determine that it is necessary for the expeditious completion of projects on any of the Federal-aid systems, including the Interstate System, he may advance to any State out of any existing appropriations the Federal share of the cost of construction thereof to enable the State highway department to make prompt payments for acquisition of rights-of-way, and for the construction as it progresses. The sums so advanced shall be deposited in a special revolving trust fund, by the State official authorized under the laws of the State to receive Federal-aid highway funds, to be disbursed solely upon vouchers approved by the State highway department for rights-of-way which have been or are being acquired, and for construction which has been actually performed and approved by the Secretary pursuant to this chapter. Upon determination by the Secretary that any part of the funds advanced to any State under the provisions of this section are no longer required, the amount of the advance, which is determined to be in excess of current requirements of the State, shall be repaid upon his demand, and such repayments shall be returned to the credit of the appropriation from which the funds were advanced. Any sum advanced and not repaid on demand shall be deducted from sums due the State for the Federal pro rata share of the cost of construction of Federal-aid projects.

(b) Notwithstanding subsection (a) of this section, if the Secretary of Transportation determines that any toll bridge, toll tunnel, or approach thereto, which meets the requirements of section 129 of this title is necessary to complete an essential gap in the Interstate System then, upon request of the State highway department, the Secretary shall, at any time during construction of such bridge, tunnel, or approach and for one year after it is opened to traffic, and subject to the conditions and limitations of such section 129, advance to such State 100 per centum of the cost of construction of such bridge, tunnel, or approach. So much of the amount so advanced that exceeds the Federal share of such construction cost shall be repaid to the United States as follows:

(1) 50 per centum within one year of the date such bridge, tunnel, or approach is opened to traffic,

(2) 25 per centum within two years of such date of opening, and

(3) 25 per centum within three years of such date of opening.

Any advance made to a State under this subsection shall be from the funds apportioned to said State for the Interstate System. So much of any advance made to a State under this subsection required to be repaid shall be repaid with interest at a rate determined by the Secretary. If a State receives any advance under this subsection with respect to any toll bridge, tunnel, or approach thereto, then the provisions of section 103(e)(4) of this title shall not apply to such bridge, tunnel, or approach.

(As amended Pub. L. 95-599, title I, § 118, Nov. 6, 1978, 92 Stat. 2699.)

AMENDMENTS

1978—Pub. L. 95-599 designated existing provisions as subsec. (a) and added subsec. (b).

ACCELERATION OF PROJECTS

Pub. L. 94-280, title I, § 141, May 5, 1976, 90 Stat. 444, as amended by Pub. L. 95-599, title I, § 136, Nov. 6, 1978, 92 Stat. 2710, provided that: "Not later than six months after the completion of such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such project, recommendations for applying such methods to other highway projects, and any changes which may be necessary to existing law to permit further reductions in the time necessary to complete highway projects."

§ 125. Emergency relief

(a) An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for (1) the repair or reconstruction of highways, roads, and trails which he shall find have suffered serious damage as the result of (A) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (B) catastrophic failures from any cause, in any part of the United States, and (2) the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State after December 31, 1967, and prior to December 31, 1970, because of imminent danger of collapse due to structural deficiencies or physical deterioration. Subject to the following limitations, there is hereby authorized to be appropriated such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis: (1) Not more than $50,000,000 is authorized to be expended in any fiscal year ending before July 1, 1972, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after June 30, 1972, and ending before June 1, 1976, to carry out the provisions of this section and an additional amount not to exceed $100,000,000 is further authorized to be expended in the fiscal year ending June 30, 1973, to carry out the provisions of this section, and not

more than $25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, is authorized to be expended to carry out the provisions of this section, and not more than $100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1976, to carry out the provisions of this section, except that, if in any fiscal year the total of all expenditures under this section is less than the amount authorized to be expended in such fiscal year, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years, and (2) prior to the fiscal year ending September 30, 1978, 60 per centum of the expenditures under this section for any fiscal year are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any moneys in the Treasury not otherwise appropriated, and for any fiscal year thereafter, 100 per centum of such expenditures are authorized to be appropriated out of the Highway Trust Fund. For the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977. Pending such appropriation or replenishment the Secretary may expend from any funds heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriations herein authorized when made.

(b) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on the Federal-aid highway systems, including the Interstate System, in accordance with the provisions of this chapter. Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Federal-aid highway systems, including the Interstate System. Except as to highways, roads, and trails mentioned in subsection (c) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State highway department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such emergency to be a major disaster for the purposes of the Disaster Relief Act of 1974 (Public Law 93-288) concurrence of the Secretary is not required.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-599, title I, § 119, Nov. 6, 1978, 92 Stat. 2700; Pub. L. 96-106, § 19, Nov. 9, 1979, 93 Stat. 799.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-106 added provision that notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Federal-aid highway systems, including the Interstate System.

1978—Subsec. (a). Pub. L. 95-599 inserted "prior to the fiscal year ending September 30, 1978" following "such years, and (2)", and added provision authorizing appropriations of 100 percent of expenditures out of the Highway Trust Fund.

§ 129. Toll roads, bridges, tunnels, and ferries

[*See main edition for text of* (a) *to* (h)]

(i) Notwithstanding section 301 of this title, the Secretary may permit Federal participation, through funds for any Federal-aid system other than the Interstate System, in any engineering and fiscal assessments, traffic analyses, network studies, preliminary modification planning, and any other study necessary to determine whether a privately owned toll bridge should be acquired by a state or political subdivision thereof.

(As amended Pub. L. 95-599, title I, § 120, Nov. 6, 1978, 92 Stat. 2700.)

AMENDMENTS

1978—Subsec. (i). Pub. L. 95-599 added subsec. (i).

STUDY TO DETERMINE EXTENT OF BONDED INDEBTEDNESS OF STATES FOR CONSTRUCTION OF TOLL ROADS INCORPORATED INTO INTERSTATE SYSTEM

Section 164 of Pub. L. 95-599, as amended by Pub. L. 96-106, § 16, Nov. 19, 1979, 93 Stat. 798, provided that: "The Secretary of Transportation shall conduct a study to determine the extent of outstanding bonded indebtedness for each State as of January 1, 1979, incurred by each State or public authority within each State prior to June 29, 1956, for the construction of roads or portion thereof incorporated into the Interstate System. The study should determine a method of allocating bonded indebtedness between portions of toll roads which have been incorporated into the Interstate System and those portions which have not been incorporated into the Interstate System; and also determine a method of allocating bonded indebtedness between those portions of the Interstate System on which tolls are collected and those portions which are toll free. The study should determine what specific encumbrances there are to expeditious removal of tolls and recommend alternative methods for equitable payment of debt service for the purpose of making toll roads incorporated into the Interstate System free to public travel. The Secretary shall report his findings to Congress not later than July 1, 1980."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 124, 148, 301 of this title; title 33 section 535f.

§ 130. Railway-highway crossings

STUDY AND INVESTIGATION OF ALLEVIATION OF ENVIRONMENTAL, SOCIAL, ETC., IMPACTS OF INCREASED UNIT TRAIN TRAFFIC

Pub. L. 95-599, title I, § 162, Nov. 6, 1978, 92 Stat. 2720, which provided that the Secretary of Transportation, in cooperation with the State highway departments and appropriate officials of local government, is authorized to undertake a comprehensive investigation and study of techniques for alleviating the envi-

ronmental, social, economic, and developmental impacts of increased unit train traffic to meet national energy requirements in communities located along rail corridors experiencing such increased traffic and that the Secretary report to the Congress on the results of such investigation and study not later than Mar. 31, 1979, was omitted from the Code as executed.

DEMONSTRATION PROJECT, RAILROAD-HIGHWAY CROSSINGS; REPORTS TO PRESIDENT AND CONGRESS; APPROPRIATIONS AUTHORIZATION; HIGHWAY SAFETY STUDY, REPORT TO CONGRESS

Pub. L. 93-87, title I, § 163, Aug. 13, 1973, 87 Stat. 280, as amended by Pub. L. 93-643, § 104, Jan. 4, 1975, 88 Stat. 2282; Pub. L. 94-280, title I, § 140(a)-(e), May 5, 1976, 90 Stat. 444; Pub. L. 95-599, title I, § 134(a)-(c), Nov. 6, 1978, 92 Stat. 2709, provided that:

[*See main edition for text of (a) to (l)*]

"(m) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purposes of eliminating highway railroad grade crossings.

"(n) The Federal share payable on account of such projects shall be 95 per centum of the cost.

"(o) The Secretary shall make annual reports and a final report to the President and the Congress with respect to his activities pursuant to this section.

"(p) There is authorized to be appropriated to carry out this section (other than subsection (l)), not to exceed $15,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976, $6,250,000, for the period beginning July 1, 1976, and ending September 30, 1976, $26,400,000 for the fiscal year ending September 30, 1977, and $51,400,000 for the fiscal year ending September 30, 1978, $70,000,000 for the fiscal year ending September 30, 1979, and $90,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982, except that not more than two-thirds of all funds authorized and expended under authority of this section in any fiscal year shall be appropriated out of the Highway Trust fund.

"(q) The Secretary, in cooperation with State highway departments and local officials, shall conduct a full and complete investigation and study of the problem of providing increased highway safety by the relocation of railroad lines from the central area of cities on a nationwide basis, and report to the Congress his recommendations resulting from such investigation and study not later than July 1, 1975, including an estimate of the cost of such a program. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study required by this subsection."

RAIL-HIGHWAY CROSSINGS

Pub. L. 93-87, title II, § 203, Aug. 13, 1973, 87 Stat. 283, as amended by Pub. L. 94-280, title II, § 203, May 5, 1976, 90 Stat. 452; Pub. L. 95-599, title II, § 203, Nov. 6, 1978, 92 Stat. 2728, provided that:

[*See main edition for text of (a)*]

"(b) [Hazard elimination] In addition to funds which may be otherwise available to carry out section 130 of title 23, United States Code, there is authorized to be appropriated, out of the Highway Trust Fund, for projects for the elimination of hazards of railway-highway crossings on any public road, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, $125,000,000 for the fiscal year ending September 30, 1977, $125,000,000 for the fiscal year ending September 30, 1978, $190,000,000 for the fiscal year ending September 30, 1979, and $190,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982. At least half of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of title 23, United States Code.

"(c) [Repealed. Pub. L. 95-599, title II, § 203(b), Nov. 6, 1978, 92 Stat. 2728.]

"(d) [State apportionment; Federal share] 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(2) of title 23, United States Code, 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(6) of title 23, United States Code, and 50 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the ratio that total rail-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project shall be 90 percent of the cost thereof.

[*See main edition for text of (e) and (f)*]

§ 131. Control of outdoor advertising

[*See main edition for text of (a) and (b)*]

(c) Effective control means that such signs, displays, or devices after January 1, 1968, if located within six hundred and sixty feet of the right-of-way and, on or after July 1, 1975, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right-of-way located outside of urban areas, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way, shall, pursuant to this section, be limited to (1) directional and official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, (3) signs, displays, and devices, including those which may be changed at reasonable intervals by electronic process or by remote control, advertising activities conducted on the property on which they are located, (4) signs lawfully in existence on October 22, 1965, determined by the State subject to the approval of the Secretary, to be landmark signs, including signs on farm structures or natural surfaces, or historic or artistic significance the preservation of which would be consistent with the purposes of this section, and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term "free

coffee" shall include coffee for which a donation may be made, but is not required.

[*See main edition for text of (d) to (f)*]

(g) Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section. The Federal share of such compensation shall be 75 per centum. Such compensation shall be paid for the following:

[*See main edition for text of (A) and (B); (h) and (i)*]

(j) Any State highway department which has, under this section as in effect on June 30, 1965, entered into an agreement with the Secretary to control the erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System shall be entitled to receive the bonus payments as set forth in the agreement, but no such State highway department shall be entitled to such payments unless the State maintains the control required under such agreement: *Provided*, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder. Such payments shall be paid only from appropriations made to carry out this section. The provisions of this subsection shall not be construed to exempt any State from controlling outdoor advertising as otherwise provided in this section.

(k) Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to signs, displays, and devices on the Federal-aid highway systems than those established under this section.

[*See main edition for text of (l)*]

(m) There is authorized to be appropriated to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for the fiscal year ending June 30, 1966, not to exceed $20,000,000 for the fiscal year ending June 30, 1967, not to exceed $2,000,000 for the fiscal year ending June 30, 1970, not to exceed $27,000,000 for the fiscal year ending June 30, 1971, not to exceed $20,500,000 for the fiscal year ending June 30, 1972, and not to exceed $50,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.

[*See main edition for text of (n) to (q)*]

(As amended Pub. L. 95-599, title I, §§ 121, 122, Nov. 6, 1978, 92 Stat. 2700, 2701; Pub. L. 96-106, § 6, Nov. 9, 1979, 93 Stat. 797.)

CODIFICATION

Subsec. (m) is set out in this supplement to correct typographical error appearing in the main edition.

AMENDMENTS

1979—Subsec. (c)(5). Pub. L. 96-106 substituted "distribution by nonprofit" for "distribution of nonprofit".

1978—Subsec. (c). Pub. L. 95-599 §§ 121, 122(c), inserted "including those which may be changed at reasonable intervals by electronic process or by remote control," following "devices" in cl. (3) and added cl. (5).

Subsec. (g). Pub. L. 95-599, § 122(a), added provision relating to just compensation for the removal of signs lawfully erected under State law but not permitted under subsec. (c).

Subsec. (j). Pub. L. 95-599, § 122(d), added provision relating to permission by the State to erect and maintain information displays.

Subsec. (k). Pub. L. 95-599, § 122(b), substituted "Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing" for "Nothing".

§ 134. Transportation planning in certain urban areas

(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section. No highway project may be constructed in any urban area of fifty thousand population or more unless the responsible public officials of such urban area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and design of the project.

(b)(1) Within one year after enactment of this subsection, in the absence of State law to

the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas, and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

(2) Except as provided in paragraph (1), after the date of enactment of this subsection designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

(c) The Secretary may define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan areas, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation systems to efficiently accommodate present transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary may by regulation designate, for administrative and planning purposes, as a critical transportation region or a critical transportation corridor each of those areas which he determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary may, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, including highway planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and may provide assistance including financial assistance to such bodies. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, not to exceed $500,000 to carry out this subsection.

(As amended Pub. L. 95-599, title I, § 169, Nov. 6, 1978, 92 Stat. 2723.)

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (b), means Nov. 6, 1978, the date of enactment of Pub. L. 95-599.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-599, § 169(a), added provisions related to cooperation with local officials and specific considerations in the planning process.

Subsec. (b). Pub. L. 95-599, § 169(b), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 95-599, § 169(b), redesignated former subsec. (b) as (c).

DEMONSTRATION PROJECT FOR RESTRICTED ACCESS TO CENTRAL BUSINESS DISTRICT OF METROPOLITAN AREAS

Section 155 of Pub. L. 95-599 provided that:

"(a) The Secretary of Transportation is authorized to carry out a demonstration project in a metropolitan area having a population of five hundred thousand, or more, to restrict the access of motor vehicles to the central business district of such area during hours of peak traffic for the purpose of determining the practicability of this method of reducing motor vehicle congestion in this area.

"(b) The Secretary of Transportation shall submit a progress report annually on the project authorized by this section and a final report, together with his recommendations, not later than three years after the date of enactment of this Act [Nov. 6, 1978].

"(c) There is authorized to be appropriated, out of the Highway Trust Fund, such sums as may be necessary to carry out this section."

REDUCTION OF URBAN BLIGHT ADJACENT TO FEDERAL-AID PRIMARY AND INTERSTATE HIGHWAYS LOCATED IN CENTRAL BUSINESS DISTRICTS

Section 159 of Pub. L. 95-599 provided that:

"The Secretary shall conduct a study of the potential for reducing urban blight adjacent to Federal-aid primary and interstate highways located in central business districts, which shall include but not be limited to the following—

"(a) a catalogue and evaluation of adverse impacts on adjacent land use;

"(b) development of a list of potential ways that these adverse impacts could be eliminated or reduced;

"(c) estimates of potential increases in value of adjacent land and air rights resulting from reduction of adverse highway impacts together with estimates of potential costs of highway improvements and related measures needed to reduce adverse impacts;

"(d) an assessment of the feasibility of using air rights and adjacent land after the improvements are completed to contribute to urban employment, recreational opportunities, low and moderate income housing, and commercial, retail, institutional and higher income residential development;

"(e) the development of financing proposals, including legislative proposals, involving all appropriate levels of government and private capital where appropriate, which would finance improvements identified as desirable;

"(f) such other matters as the Secretary shall deem appropriate.

Such study shall be conducted in cooperation with appropriate State and local governments and shall be submitted to Congress two years after the date of enactment [Nov. 6, 1978]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 7504, 7506.

§ 135. Traffic operations improvement programs

DEMONSTRATION PROJECT FOR AUTOMATED ROADWAY MANAGEMENT SYSTEM

Pub. L. 95-599, title I, § 154, Nov. 6, 1978, 92 Stat. 2716, provided that:

"(a) The Secretary of Transportation is authorized to carry out a demonstration project of the use of a sophisticated automated roadway management system to increase the capacity and safety of automobile travel in high density travel corridors without providing additional lanes of pavement. The management system shall coordinate the traffic flow in major freeways and arterials servicing the travel corridor by use of an integrated system of vehicle sensors to monitor traffic, computers to assess traffic conditions throughout the corridor, and devices to communicate with drivers, police, and emergency equipment.

"(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $1,500,000 for the fiscal year ending Septem-

ber 30, 1979, not to exceed $2,500,000 for the fiscal year ending September 30, 1980, and not to exceed $26,000,000 for the fiscal year ending September 30, 1981.

"(c) The Federal share payable on account of any project authorized under this section shall not exceed 90 per centum of the total cost thereof.

"(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall not exceed 90 per centum."

§ 139. Additions to Interstate System

Section Referred to in Other Sections

This section is referred to in section 103 of this title.

§ 141. Enforcement of requirements

(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.

(As amended Pub. L. 95-599, title I, § 123(d), Nov. 6, 1978, 92 Stat. 2702.)

Amendments

1978—Pub. L. 95-599 redesignated existing provisions as subsecs. (a) and (b) and added subsec. (c).

Effective Date of 1978 Amendment

Section 123(e) of Pub. L. 95-599, formerly set out as a note under this section, providing that subsec. (c)(2) and (3) of this section be applicable to certifications required by this section to be filed on or after Jan. 1, 1980, was repealed by Pub. L. 96-106, § 12, Nov. 9, 1979, 93 Stat. 798.

Enforcement of Vehicle Weight Limitations

Section 123(a) to (c) provided that:

"(a) Not later than the one-hundred-eightieth day after the date of enactment of this section [Nov. 6, 1978], the Secretary of Transportation, hereunder referred to as the 'Secretary', in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State. Each State shall annually thereafter report to the Secretary its current inventory.

"(b)(1) Not later than the one-hundred-eightieth day after the date of enactment of this section [Nov. 6, 1978], the Secretary, in consultation with each State, shall inventory the existing system in such State for the issuance of special permits. Each State shall annually thereafter report to the Secretary its current inventory.

"(2) For purposes of this subsection, the term 'special permit' means a license or permit issued pursuant to State law, rule, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation.

"(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section [Nov. 6, 1978] and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code."

Section Referred to in Other Sections

This section is referred to in section 154 of this title.

§ 142. Public transportation

Rural Highway Transportation Demonstration Program; Appropriations Authorization; Public Notice and Hearing

Section 147 of Pub. L. 93-87, as amended by Pub. L. 93-643, § 103, Jan. 4, 1975, 88 Stat. 2282; Pub. L. 94-280, title I, § 129, May 5, 1976, 90 Stat. 440; Pub. L. 95-599, title I, § 132, Nov. 6, 1978, 92 Stat. 2708, provided that:

"(a) To encourage the development, improvement, and use of public mass transportation systems operating vehicles on highways for transportation of passengers within rural areas and small urban areas, and between such areas and urbanized areas, in order to enhance access of rural populations to employment, health care, retail centers, education, and public services, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1975, and $60,000,000 for the fiscal year ending June 30, 1976, of which $50,000,000 shall be out of the Highway Trust Fund, to the Secretary of Transportation to carry out demonstration projects for public mass transportation on highways in rural areas and small urban areas. Such sums shall remain available for a period of two years after the close of the fiscal year for which such sums are authorized. Projects eligible for Federal funds under this section shall include highway traffic control devices, the construction of passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, the purchase of passenger equipment other than rolling stock for fixed rail, and the payment from the General Fund for operating expenses

incurred as a result of providing such service. To the extent intercity bus service is provided under the program, perference shall be given to private bus operators who lawfully have provided rural highway passenger transportation over the routes or within the general area of the demonstration project. A demonstration project shall be carried out under this section in and in the vicinity of the Sherman, Texas-Denison, Texas area.

[See main edition for text of (b)]

§ 143. Economic growth center development highways

References in Text

The Appalachian Regional Development Act of 1965, referred to in subsec. (f)(2), is Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 5, as amended, which was classified generally to § 1 et seq. of Title 40, App., Public Buildings, Property, and Works, and was terminated, with the exception of section 201 of such Act, on Oct. 1, 1979, pursuant to section 405 of the Act. Section 403 of the Appalachian Regional Development Act of 1965 was classified to section 403 of the Appendix to Title 40 prior to its termination on Oct. 1, 1979. For complete classification of this Act to the Code, see Tables.

Termination of Appalachian Regional Commission

The Appalachian Regional Commission, which was established by section 101 of the Appalachian Regional Development Act of 1965, Pub. L. 89-4, title I, Mar. 9, 1965, 79 Stat. 6, and set out as section 101 of the Appendix to Title 40, Public Buildings, Property, and Works, was terminated on Oct. 1, 1979, pursuant to section 405 of the Appalachian Regional Development Act of 1965. See section 405 of the Appendix to Title 40.

§ 144. Highway bridge replacement and rehabilitation program

(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the several States to replace or rehabilitate highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary finds that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

(2) The Secretary may, at the request of a State, inventory bridges, on and off the Federal-aid system, for historic significance.

(d) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsection (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service those highway bridges most in danger of failure.

(e) Funds authorized to carry out this section shall be apportioned on October 1 of the fiscal year for which authorized. Funds authorized to carry out this section for the fiscal year ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be apportioned to the States in accordance with revised table 1 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives. Funds authorized to carry out this section which are apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to other States in accordance with revised table 1 of Committee Print 95-49 of the Committee on Public Works and Transportation of the House of Representatives.

(f) The Federal share payable on account of any highway bridge replaced or rehabilitated under this section shall be 80 per centum of the cost thereof.

(g) To carry out this section, there is authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, authorized by paragraph (6) of section 202 of the Highway Safety Act of 1978, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or

rehabilitation cost of each of which is more than $10,000,000, and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Not less than 15 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal aid system. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal aid system when he determines that such State has inadequate needs to justify such expenditure.

(h) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters which are not subject to the ebb and flow of the tide, and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(i) The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsections (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section.

(j) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

(k) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

(*l*) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project.

(m) As used in this section the term "rehabilitate" in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

(As amended Pub. L. 95–599, title I, § 124(a), Nov. 6, 1978, 92 Stat. 2702; Pub. L. 96–106, §§ 7, 8(a), Nov. 9, 1979, 93 Stat. 797.)

REFERENCES IN TEXT

Section 202 of the Highway Safety Act of 1978, referred to in subsec. (g), is section 202 of title II of Pub. L. 95–599, which was not classified to the Code.

The General Bridge Act of 1946, referred to in subsec. (h), is act Aug. 2, 1946, ch. 753, title V, 60 Stat. 847, as amended, which is classified generally to subchapter II (§ 525 et seq.) of chapter 11 of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 525 of Title 33 and Tables.

Section 502(b) of such Act of 1946, referred to in subsec. (h), in section 502(b) of act Aug. 2, 1946, which is classified to section 525(b) of Title 33.

Section 9 of the Act of March 3, 1899, referred to in subsec. (h), is section 9 of act March 3, 1899, ch. 425, 30 Stat. 1151, which is classified to section 401 of Title 33.

The date of enactment of this subsection, referred to in subsec. (k), is Nov. 6, 1978, the date of enactment of Pub. L. 95–599.

AMENDMENTS

1979—Subsec. (d). Pub. L. 96–106, § 7(a), substituted "such bridge with a comparable facility or in rehabilitating such bridge" for "or rehabilitating such bridge with a comparable facility".

Subsec. (g). Pub. L. 96–106, § 8(a), inserted ", and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such costs is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge".

Subsec. (m). Pub. L. 96–106, § 7(b), substituted "major work" for "major repairs".

1978—Subsec. (a). Pub. L. 95–599 substituted provisions relating to Congressional findings as to highway bridge replacement and rehabilitation for provisions relating to Congressional findings as to special bridge replacement.

Subsec. (b). Pub. L. 95–599 added cl. (4).

Subsec. (c). Pub. L. 95–599 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 95–599 redesignated former subsec. (c) as (d) and, as redesignated, among other amendments deleted provisions requiring the Secretary to consider the economy of the area and approval of projects without regard to allocation formulas under this title.

Subsec. (e). Pub. L. 95–599 added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 95–599 redesignated former subsec. (d) as (f) and, as so redesignated, substituted "80" for "75" and inserted "highway" following "account of any". Former subsec. (f) was struck out.

Subsec. (g). Pub. L. 95–599 redesignated former subsec. (e) as (g) and, as so redesignated, added provisions authorizing appropriations for fiscal years

ending Sept. 30, 1979 through Sept. 30, 1982. Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95-599 redesignated former subsec. (g) as (h) and, as so redesignated, added provisions relating to exceptions to applications of the General Bridge Act of 1946. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 95-599 redesignated former subsec. (h) as (i) and, as so redesignated, added provisions relating to the revision and report of current inventories.

Subsecs. (j) to (m). Pub. L. 95-599 added subsecs. (j) to (m).

TRANSFER OF DISCRETIONARY BRIDGE FUNDS

Section 8(b) of Pub. L. 96-106 provided that: "Notwithstanding any other provision of law discretionary bridge funds authorized under section 144(g) of title 23, United States Code, for fiscal year 1980 may be transferred to a State's apportionment under section 104(b)(6) of title 23, United States Code, to repay funds obligated under section 104(b)(6) of title 23, United States Code, between June 1 and July 31, 1979, for bridge projects which are eligible for funding by virtue of the amendment in subsection (a) of this section [amending subsec. (g) of this section]."

TIME FOR COMPLETION OF INVENTORY AND CLASSIFICATION OF HIGHWAY BRIDGES

Section 124(c) of Pub. L. 95-599 provided that: "The Secretary of Transportation shall complete the requirements of subsection (c) of section 144 of title 23, United States Code, as amended by subsection (a) of this section not later than the last day of the second full calendar year which begins after the date of the enactment of this section [Nov. 6, 1978]."

ACCELERATION OF BRIDGE PROJECTS; REPORT TO CONGRESS

Section 147 of Pub. L. 95-599, as amended by Pub. L. 96-106, § 15, Nov. 10, 1979, 93 Stat. 798, provided that: "The Secretary of Transportation shall carry out two projects to construct or replace high traffic volume bridges located on the Federal-aid system and which traverse major bodies of water in order to demonstrate the feasibility of reducing the time required to replace unsafe bridges. One project shall demonstrate the feasibility of reducing the time required from the time of a request for project approval through completion of construction. The other project shall demonstrate the feasibility of reducing the time to complete construction of bridge projects on which all Federal environmental and navigational reviews and assessments have been completed. Not to exceed $54,000,000 of the amount authorized for the fiscal year ending September 30, 1979, by section 202(6) of the Highway Safety Act of 1978 [not classified to the Code] to be apportioned under section 144(e) of title 23, United States Code, shall be set aside before any such apportionment and shall be available for obligation to carry out this section in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available until expended. Such additional funds as may be necessary to complete the projects shall be set aside for such purpose from the amount authorized for the fiscal year ending September 30, 1981, by section 202(6) of the Highway Safety Act of 1978 [Pub. L. 95-599, title II, § 202(6), Nov. 6, 1978, 92 Stat. 2728], before any apportionment of such amount under section 144(e) of title 23, United States Code, and such funds shall be available for obligation in the same manner and to the same extent as funds set aside under authority of the preceding sentence. The Federal share of the projects authorized by this section shall be that provided in section 120(c) of title 23, United States Code. Not later than six months after completion of each such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such bridge project, recommendations for applying such methods to other bridge projects, and any changes which may be necessary to existing laws to permit further reductions in the time necessary to complete bridge projects."

§ 146. Carpool and vanpool projects

(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term "carpool" includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.

(Added Pub. L. 95-599, title I, § 126(a), Nov. 6, 1978, 92 Stat. 2705.)

PRIOR PROVISIONS

A prior section 146, Pub. L. 93-87, title I, § 125(a), Aug. 13, 1973, 87 Stat. 262, which related to a special urban high density traffic program, was repealed by Pub. L. 94-280, title I, § 128(a), May 5, 1976, 90 Stat. 440.

GRANTS TO STATES, COUNTIES, ETC., TO PROMOTE CARPOOLING AND VANPOOLING PROGRAMS

Section 126(d) to (h) of Pub. L. 95-599 provided that: "(d) It is hereby declared to be national policy that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion. The Secretary is directed to assist both public and private employers and employees who wish to establish carpooling and vanpooling programs where they are needed and desired, and to assist local and State governments, and their instrumentalities, in encouraging such modes by removing legal and regulatory barriers to such programs, supporting existing carpooling and vanpooling programs, and providing technical assistance, for the purpose of increasing participation in such modes.

"(e) The Secretary of Transportation is authorized to make grants and loans to States, counties, municipalities, metropolitan planning organizations, and other units of local and regional government consistent with the policy of subsection (d) of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. The Federal share of the costs of any project approved under this subsection shall not exceed 75 per centum. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

"(f) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed

$1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (d) of this section, and $3,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980, for the purpose of carrying out the program described in subsection (e) of this section.

"(g) The Secretary of Transportation shall not approve any project under subsection (d) or (e) of this section or under section 146 of title 23, United States Code; which will have an adverse effect on any mass transportation system.

"(h) The Secretary of Transportation is directed to study the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation, including programs of the Federal Highway Administration, the Urban Mass Transportation Administration, and the Office of the Secretary. Such study shall be completed no later than September 30, 1979. Upon completion of such study, the Secretary shall propose a plan to centralize or modify such programs to make delivery of services and grants more efficient, more cost-effective, and to avoid duplication of effort. Such plan shall list statutory changes needed to implement such a plan, which shall be sent to Congress no later than March 30, 1980."

§ 148. Development of a national scenic and recreational highway

(a) As soon as possible after the date of enactment of this section, the Secretary shall establish criteria for the location and construction or reconstruction of the Great River Road by the ten States bordering the Mississippi River. Such criteria shall include requirements that—

[*See main edition for text of (1) to (4)*]

(5) the provisions of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section, except for parks, recreational areas, and historical sites operated by State or local governments where admission fees may be charged to cover operational costs.

[*See main edition for text of (b) to (d)*]

(e) The Federal share of the cost of any project for any construction or reconstruction pursuant to the preceding subsections of this section shall be that provided in section 120 of this title for the Federal-aid system on which such project is located, and if such project is not on such a system, such share shall be 75 per centum of such cost.

[*See main edition for text of (f) and (g)*]

(h) The Secretary is authorized to provide for the construction of such spur highways as he determines necessary to connect the Great River Road, by the most direct feasible routes, with existing bridges across the Mississippi for the purpose of providing persons traveling such road with access to significant scenic, historical, recreational, or archeological features on the opposite side of the Mississippi River from the Great River Road.

(As amended Pub. L. 95-599, title I, §§ 125, 129(d), Nov. 6, 1978, 92 Stat. 2705, 2707.)

Amendments

1978—Subsec. (a)(5). Pub. L. 95-599, § 125(b), added provision authorizing the charging of a fee in certain cases to cover operational costs.

Subsec. (e). Pub. L. 95-599, § 129(d), substituted "75 per centum" for "70 per centum".

Subsec. (h). Pub. L. 95-599, § 125(a), added subsec. (h).

Effective Date of 1978 Amendment

Amendment by section 129(d) of Pub. L. 95-599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95-599, set out as an Effective Date of 1978 Amendment note under section 120 of this title.

§ 151. Pavement marking demonstration program

[*See main edition for text of (a) to (d)*]

(e) For the purpose of carrying out the provisions of this section by the Federal Highway Administration, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1974, $25,000,000 and for each of the fiscal years ending June 30, 1975, and June 30, 1976, out of the Highway Trust Fund, the sum of $75,000,000. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under this chapter for the Federal-aid primary system. On October 1 of 1978, 1979, and 1980 the Secretary shall allocate the sums authorized to carry out this section for that fiscal year among the several States in such manner as he deems most appropriate to expedite the completion of pavement marking of all highways. Any amounts allocated to the States remaining unobligated at the end of the fiscal year following the fiscal year for which such amounts are authorized shall immediately be reallocated by the Secretary among the other States.

[*See main edition for text of (f) and (g)*]

(As amended Pub. L. 95-599, title I, § 127, Nov. 6, 1978, 92 Stat. 2707.)

Amendments

1978—Subsec. (e). Pub. L. 95-599 added provision relating to the allocation of funds among the several States.

§ 152. Hazard elimination program

(a) Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

(b) The Secretary may approve as a project under this section any highway safety improvement project.

(c) Funds authorized to carry out this section shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as provided in section 402(c) of this title. Such funds shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for various types of corrections and treatments which shall be used in setting priorities for highway safety improvement projects.

(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement highway safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Congress not later than April 1 of each year on the progress being made by the States in implementing the hazard elimination program. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

(h) For the purposes of this section the term "State" shall have the meaning given it in section 401 of this title.

(As amended Pub. L. 95-599, title I, § 168(a), Nov. 6, 1978, 92 Stat. 2722; Pub. L. 96-106, § 10(b), Nov. 9, 1979, 93 Stat. 798.)

AMENDMENTS

1979—Subsec. (g). Pub. L. 96-106 substituted "December 30" for "September 30" and "April 1" for "January 1".

1978—Subsec. (a). Pub. L. 95-599 substituted "public roads" for "highways" and added provisions relating to identification of hazardous sections and elements.

Subsec. (b). Pub. L. 95-599 substituted provisions relating to approval of highway safety improvement projects by the Secretary for provisons authorizing appropriations for fiscal years ending June 30, 1974 through June 30, 1976.

Subsec. (c). Pub. L. 95-599 re-enacted subsec. (c) without substantive change.

Subsec. (d). Pub. L. 95-599 substituted provisions prescribing the Federal share payable on account of any project under this section for provisions relating to apportionment of funds made available under subsec. (b) to the States. See subsec. (e) of this section.

Subsec. (e). Pub. L. 95-599 substituted provisions relating to apportionment of funds to the States under this section for provisions relating to progress reports required of the States under this section. See subsec. (g).

Subsec. (f). Pub. L. 95-599 added subsec. (f). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 95-599 added subsec. (g).

Subsec. (h). Pub. L. 95-599 redesignated former subsec. (f) as (h).

[§ 153. Repealed. Pub. L. 95-599, title I, § 168(b), Nov. 6, 1978, 92 Stat. 2723]

Section, added Pub. L. 93-87, title II, § 210(a), Aug. 13, 1973, 87 Stat. 287, and amended Pub. L. 94-280, title I, § 131, May 5, 1976, 90 Stat. 441, related to a program for the elimination of roadside obstacles.

§ 154. National maximum speed limit

[See main edition for text of (a) to (d)]

(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles.

(f)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981.

(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 60 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982.

(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 50 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

(4) For the twelve-month period ending September 30, 1982, if the data submitted by a

State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984.

(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1985, and for each succeeding fiscal year thereafter.

(g) In any case where the Secretary determines, in accordance with criteria established by the Secretary, that a reduction in apportionment required by subsection (f) of this section would result in hardship to a State, the fiscal year apportionment reduced for such State shall be the apportionment for one fiscal year later than the fiscal year to which such reduction would apply under subsection (f) but for such hardship determination.

(h) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

(i)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 60 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1980.

(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 50 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1981.

(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 40 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1982.

(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 30 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1983.

(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 20 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1984 and succeeding fiscal years.

(6) An incentive grant made to a State under this subsection shall be equal to 10 per centum of the apportionment to such State for the fiscal year on the basis of the data for which such incentive grant is to be made. The apportionment on which such incentive grant is based shall be that made under section 402(c) of this title for carrying out those provisions of section 402 relating to highway safety programs administered by the National Highway Traffic Safety Administration. Incentive grants made under this subsection may be expended for carrying out any provision of section 402 of this title.

(As amended Pub. L. 95-599, title II, § 205, Nov. 6, 1978, 92 Stat. 2729.)

AMENDMENTS

1978—Subsecs. (e) to (i). Pub. L. 95-599 added subsecs. (e) to (i).

§ 155. Access highways to public recreation areas on certain lakes

[*See main edition for text of* (a)]

(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 75 per centum of the cost of construction or reconstruction of such project.

[*See main edition for text of* (c) *to* (e)]

(As amended Pub. L. 95-599, title I, § 129(e), Nov. 6, 1978, 92 Stat. 2708.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-599 substituted "75 per centum" for "70 per centum".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95-599, set out as an Effective Date of 1978 Amendment note under section 120 of this title.

CHAPTER 2—OTHER HIGHWAYS

§ 215. Territorial highway program

(a) Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, and American Samoa, and to the United States from the improvement of highways in such territories of the United States, the Secretary is authorized to assist each such territorial government in a program for the construction and improvement of a system of arterial highways, and necessary interisland connectors designated by the Governor of such territory and approved by the Sec-

retary. Federal financial assistance shall be granted under this subsection to such territories upon the basis of a Federal contribution of 100 per centum of the cost of any project.

[*See main edition for text of (b) to (e)*]

(f) The provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section.

(As amended Pub. L. 95-599, title I, § 129(f), Nov. 6, 1978, 92 Stat. 2708; Pub. L. 96-106, § 9, Nov. 9, 1979, 93 Stat. 798.)

AMENDMENTS

1979—Subsec. (f). Pub. L. 96-106 substituted "chapter 1" for "chapters 1 and 5".

1978—Subsec. (a). Pub. L. 95-599 substituted "100 per centum" for "70 per centum".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95-599, set out as an Effective Date of 1978 Amendment note under section 120 of this title.

AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS ENDING SEPTEMBER 30, 1979, 1980, AND 1982

Pub. L. 95-599, title I, § 104(a)(12), Nov. 6, 1978, 92 Stat. 2691, provided that:

"For carrying out section 215(a) of title 23, United States Code—

"(A) for the Virgin Islands, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"(B) for Guam, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"(C) for American Samoa, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code."

§ 217. Bicycle transportation and pedestrian walkways

(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters for and parking facilities for bicycles; and pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects and pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

[*See main edition for text of (b) to (e)*]

(As amended Pub. L. 95-599, title I, § 141(h), Nov. 6, 1978, 92 Stat. 2712.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-599 added provision relating to energy conservation and deleted requirement that such construction be in conjunction with Federal-aid highways.

ENERGY CONSERVATION BICYCLE TRANSPORTATION PROGRAM; REPORT

Pub. L. 95-619, title VI, § 682, Nov. 9, 1978, 92 Stat. 3287, provided that:

"(a) FINDINGS.—The Congress recognizes that bicycles are the most efficient means of transportation, represent a viable commuting alternative to many people, offer mobility at speeds as fast as that of cars in urban areas, provide health benefit through daily exercise, reduce noise and air pollution, are relatively inexpensive, and deserve consideration in a comprehensive national energy plan.

"(b) STUDY.—Not more than 1 year after the date of the enactment of this Act [Nov. 9, 1978], the Secretary of Transportation shall complete a study of the energy conservation of potential bicycle transportation, determine institutional, legal, physical, and personal obstacles to increased bicycle use, establish a target for bicycle use in commuting, and develop a comprehensive program to meet these goals. In developing the program, consideration should be given to educational programs, Federal demonstrations, planning grants, and construction grants, the Secretary of Transportation shall submit a report to the President and to the Congress containing the results of such a study."

BIKEWAY CONSTRUCTION PROJECTS

Section 141(a) to (e) and (i) of Pub. L. 95-599 provided that:

"(a) For the purposes of this section, the term—

"(1) 'Secretary' means the Secretary of Transportation;

"(2) 'bikeway' means a new or improved lane, path, or shoulder, a traffic control device, lighting, or a shelter or parking facility for bicycles;

"(3) 'State' means any one of the fifty States, the District of Columbia, or Puerto Rico.

"(b) The Secretary shall, by regulation, establish design and construction standards for bikeway construction projects for which grants are authorized in subsection (c) and section 217 of title 23, United States Code. Such regulations shall contain criteria for pavements, adequate widths, sight distances and lighting; appropriate design speeds and grades; and such other requirements as the Secretary may deem necessary.

"(c) The Secretary is authorized to make grants to States and to political subdivisions thereof for (1) the construction of bikeways which (A) comply with regulations promulgated pursuant to subsection (b), or (B) prior to promulgation of such regulations, reflect current state of the art design standards, or (2) nonconstruction programs or projects which can reasonably be expected to enhance the safety and use of bicycles. Projects in urban areas financed with grants under this subsection shall be in accordance with the continuing, comprehensive planning process in section 134 of title 23, United States Code.

"(d) The Federal share of any project or program for which a grant is made under subsection (c) shall not exceed 75 per cent.

"(e) Grants made under this section shall be in addition to any sums available for bicycle projects under section 217 of title 23, United States Code.

"(i) There is authorized to be appropriated to the Secretary to carry out subsection (c), for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, out of the Highway Trust Fund $10,000,000, and $10,000,000 out of any other money in the Treasury not otherwise appropriated."

§ 219. Safer off-system roads

[See main edition for text of (a) and (b)]

(c) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis. Not less than 50 per centum of the funds obligated in any State under this section in any fiscal year shall be obligated for highway safety improvement projects.

[See main edition for text of (d) to (f)]

(As amended Pub. L. 95-599, title I, § 168(d), Nov. 6, 1978, 92 Stat. 2723; Pub. L. 96-106, § 10(a), Nov. 9, 1979, 93 Stat. 798.)

AMENDMENTS

1979—Subsec. (c). Pub. L. 96-106 substituted "improvement" for "construction".

1978—Subsec. (c). Pub. L. 95-599 added provision establishing a minimum obligation for funds.

CHAPTER 3—GENERAL PROVISIONS

§ 303. Administration organization

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 307. Research and planning

ACCESS CONTROL DEMONSTRATION PROJECTS; REPORT TO CONGRESS; APPROPRIATIONS AUTHORIZATION

Pub. L. 95-599, title I, § 150, Nov. 6, 1978, 92 Stat. 2715, provided that:

"(a) The Secretary of Transportation is authorized to carry out access control demonstration projects designed to demonstrate whether preserving the capacity of existing highways to move traffic safely by acquiring and controlling the right of access to such a highway is a cost effective alternative to the construction of additional highways. Such demonstration projects shall be carried out (1) on highways which are on the Federal-aid primary or secondary system, and are well maintained and in good condition, and (2) in traffic corridors which are not already subject to heavy industrial, commercial, or residential development. The Secretary of Transportation shall carry out one such demonstration project in each of three States.

"(b) On or before September 30, 1983, the Secretary shall report to Congress the results of the projects carried out under this section.

"(c) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $10,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980.

"(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code."

ROUTES IN ALASKA AND PUERTO RICO AS PART OF NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS; STUDY AND REPORT TO CONGRESS

Pub. L. 95-599, title I, § 156, Nov. 6, 1978, 92 Stat. 2717, which provided that the Secretary of Transportation study and report to Congress by July 1, 1979, on the feasibility and desirability of designing routes in the State of Alaska and Commonwealth of Puerto Rico as part of the National System of Interstate and Defense Highways, was omitted from the Code as executed.

UNIFORMITY IN MAXIMUM TRUCK SIZE AND WEIGHT LIMITS; STUDY AND REPORT TO CONGRESS

Pub. L. 95-599, title I, § 161, Nov. 6, 1978, 92 Stat. 2719, provided that:

"(1) The Secretary of Transportation is hereby authorized and directed, in cooperation with other Federal officers and agencies, the State departments of transportation or highway departments, and other affected parties, to make a study and investigation of—

"(A) the need for, and desirability of, uniformity in maximum truck size and weight limits throughout the United States;

"(B) the effect upon the construction, reconstruction and maintenance of roads, upon the economy of a State or region upon energy consumption, and upon carriers of reducing to limits set forth in section 127, title 23, United States Code, those maximum size and weight limits currently higher than limits in such section;

"(C) the relation of highway and bridge design, construction practices, and maintenance costs in those States with weights above the Federal maximum, including an analysis of the adequacy of such design practices for these weights, as compared to the same factors in States adhering to the weight limits set forth in section 127 of title 23, United States Code; and

"(D) the adequacy of current highway and bridge design standards with respect to the present and future transportation needs, considering costs, economy of transportation and fuel efficiency.

"(2) The Secretary shall report to the Congress the findings and recommendations of this study no later than January 15, 1981. Such report shall include recommendations on the desirability of uniform maximum truck weights and, if desirable, appropriate means to bring about such uniformity, and the appropriateness of current maximum vehicle weights."

STUDY OF FACTORS AFFECTING SAFE AND EFFICIENT OPERATION OF BRIDGES, TUNNELS AND ROADS WITHIN UNITED STATES

Pub. L. 95-599, title I, § 166, Nov. 6, 1978, 92 Stat. 2722, provided that: "The Secretary of Transportation shall make a full and complete investigation and study of all those factors affecting the safe and efficient operation of bridges, tunnels, and roads within the United States, including, but not limited to, structural, operational, environmental, and civil disturbance factors."

STUDY OF OUTSIZED VEHICLES FOR OPERATION ON HIGHWAYS

Pub. L. 95-599, title II, § 211, Nov. 6, 1978, 92 Stat. 2734, which provided that the Secretary of Transportation make a complete study of outsized vehicles for operation on the highways constructed in a manner which exceed the standardized industry configurations and that the Secretary make a report to Congress on the results of his study not later than six months after Nov. 6, 1978, was omitted from the Code as executed.

COST ALLOCATION STUDY

Pub. L. 95-599, title V, § 506, Nov. 6, 1978, 92 Stat. 2760, provided that:

"(a) STUDY DIRECTED.—The Secretary of Transportation is hereby authorized and directed, in cooperation

with the State highway departments, to undertake a full and complete investigation and study of—

"(1) the costs occasioned in design, construction, rehabilitation, and maintenance of Federal-aid highways by the use of vehicles of different dimensions, weights, and other specifications, and by the frequency of such vehicles in the traffic stream;

"(2) the proportionate share of such design, construction, rehabilitation, and maintenance costs attributable to each class of persons and vehicles using such highways; and

"(3) the need for long-term or continuous monitoring of roadway deterioration to determine the relative damage attributable to traffic and environmental factors.

"(b) EVALUATION BY CONGRESSIONAL BUDGET OFFICE.—To assist the Secretary of Transportation in the conduct of the investigation and study authorized and directed by subsection (a) of this section, the Congressional Budget Office is hereby authorized and directed to make an evaluation of—

"(1) the procedures to be employed in determining the equitable allocation of highway costs;

"(2) the information to be collected to apply the procedures identified pursuant to paragraph (1);

"(3) any special studies essential to the conduct of the investigation which can be identified and completed within the deadlines established by this section; and

"(4) the procedures to be employed to ensure a continuing equitable allocation of highway costs after study termination.

The Congressional Budget Office shall report its findings to the Congress and to the Secretary of Transportation within ninety days after the date of the enactment of this section. These findings shall be employed by the Secretary as guidelines in the design of the investigation and study authorized and directed by subsection (a) of this section.

"(c) REPORTS.—

"(1) Within one hundred and eighty days after the date of the enactment of this section [Nov. 6, 1978], the Secretary of Transportation shall report to the Congress on a plan for the investigation and study. Such plan shall include, but not be limited to, the data to be gathered; the sources of such data; the method to be used to allocate costs; the method to be used to attribute revenues; the criteria to be employed in arriving at an equitable distribution of the tax burden; the agency or agencies responsible for performance and review of the study; a projected schedule for study performance; and the estimated costs of the study.

"(2) On or before January 15, 1980, and January 15, 1981, the Secretary of Transportation shall report to the Congress the progress which has been made in carrying out the study and investigation required by this section. Such progress reports shall include, but not be limited to, a discussion of any changes from the study plan as submitted under provisions of this section and of preliminary findings of the investigation.

"(3) The Secretary shall report to the Congress the findings and recommendations of the study no later than January 15, 1982. Such recommendations shall include any alternative tax structures which the Secretary believes would more nearly achieve an equitable distribution of the tax burden among classes of persons and vehicles using Federal-aid highways, and the projected impact of such structures on affected industries and other users."

§ 317. Appropriation for highway purposes of lands or interests in lands owned by the United States

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1770.

§ 320. Bridges on Federal dams

[See main edition for text of (a) to (c)]

(d) Not to exceed $65,000,000 of any money heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title or prior Acts shall be available for expenditure by the Secretary in accordance with the provisions of this section, as an emergency fund, to reimburse any agency for any additional costs or expenditures which it may be required to incur because of the design and construction of any such dam so that it will constitute and serve as a foundation for a public highway bridge upon and across such dam and to reimburse any such agency for any costs, expenses, or expenditures which it may be required to make in designing and constructing any such bridge upon and across a dam in accordance with the provisions of this section, except such costs, expenses, or expenditures as would have been required of such agency in any event to satisfy a legal obligation to relocate a highway or bridge or to meet operating or other agency needs, and there is authorized to be appropriated any sum or sums necessary to reimburse the funds so expended by the Secretary from time to time under the authority of this section. Of each bridge constructed upon and across a dam under the provisions of this section, there may be financed wholly with Federal funds that portion thereof which is located within the physical limits of the masonry structure, or structures, of the dam, and the Secretary shall in his sole discretion determine what additional portion of the bridge, if any, may be so financed, such determination to be final and conclusive. The remainder of the bridge, and any necessary related approach roads, shall be financed by the State or its appropriate subdivision with or without the aid of Federal funds; but said portion of the bridge so financed by the State or its subdivisions, including such portion thereof, if any, as may extend beyond the physical limits of the dam, shall nevertheless be designed and constructed solely by the agency having custody and jurisdiction of the dam as provided in subsection (a) of this section.

[See main edition for text of (e) and (f)]

(As amended Pub. L. 95–599, title I, § 128(a), Nov. 6, 1978, 92 Stat. 2707.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95–599 substituted "$65,000,000" for "$50,000,000".

APPROPRIATION OUT OF HIGHWAY TRUST FUND OF SUMS APPROPRIATED UNDER AUTHORITY OF INCREASED AUTHORIZATION

Section 128(b) of Pub. L. 95–599 provided that: "Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section [amending subsec. (d) of this section] shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1978, and for subsequent fiscal years."

§ 321. National Highway Institute

[See main edition for text of (a)]

(b) Not to exceed one-half of 1 per centum of all funds apportioned for any fiscal year beginning after June 30, 1970, to any State under

paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 75 per centum of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

[*See main edition for text of* (c)]

(As amended Pub. L. 96-106, § 11, Nov. 9, 1979, 93 Stat. 798.)

AMENDMENTS

1979—Subsec. (b). Pub. L. 96-106 substituted "paragraphs (1), (2)," for "paragraphs (1), (2), (3)" and "75 percentum" for "70 percentum".

CHAPTER 4—HIGHWAY SAFETY

Sec.
407. Innovative project grants.

AMENDMENTS

1978—Pub. L. 95-599, title II, § 208(b), Nov. 6, 1978, 92 Stat. 2732, added item 407.

§ 401. Authority of the Secretary

SHORT TITLE OF 1978 AMENDMENTS

Pub. L. 95-599, title II, § 201, Nov. 6, 1978, 92 Stat. 2727, provided that: "This title [enacting section 407 of this title, amending sections 154 and 402 of this title, and enacting provisions set out as notes under this section and sections 130, 307, 402, and 403 of this title] may be cited as the 'Highway Safety Act of 1978'."

PILOT PROJECTS FOR HIGHWAY SAFETY EDUCATION AND INFORMATION

Pub. L. 95-599, title II, § 209, Nov. 6, 1978, 92 Stat. 2732, provided that:

"(a) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall carry out six pilot projects designed, through the use of television and radio, to develop and evaluate techniques, methods, and practices to achieve maximum measurable effectiveness in reducing traffic accidents, injuries, and deaths.

"(b) Each pilot project authorized by this section shall be in operation not later than the one hundred and eightieth day after the date of the first appropriation of funds made under authority of this section, and shall be conducted for a one-year period. Not later than the ninetieth day after the end of each such one-year period, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall report to Congress the results of such project, including, but not limited to, an evaluation of the effectiveness of such project and a statistical analysis of the traffic accidents and fatalities within the project area during such one-year period.

"(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out subsections (a) and (b) of this section, $6,000,000, to remain available until expended.

"(d) Not later than the one hundred and eightieth day after the date of submission of the final report to Congress required by subsection (b) of this section, and utilizing those techniques, methods, and practices determined most effective, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall conduct a national highway safety campaign utilizing the local and national television and radio to educate and inform the public of techniques, methods, and practices to reduce the number and severity of highway accidents.

"(e) Such campaign is authorized to be conducted in cooperation with interested government and nongovernment authorities, agencies, organizations, institutions, businesses, and individuals, and shall utilize to the extent possible nongovernmental professional organizations equipped and experienced to conduct such campaign.

"(f) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall engage such private firms or organizations as he determines necessary to conduct an on-going evaluation of the national campaign authorized by subsection (d) of this section to determine ways and means for encouraging the participation and cooperation of television and radio station licensees, for measuring audience reactions to on-going highway safety programming for evaluating the effectiveness of such programs in terms of the number of lives saved and the reduction in injuries, and for the purpose of developing new programs for the promotion of highway safety. Such evaluation shall include determinations of those programs designed to encourage the voluntary use of safety belts which are most effective and shall include recommendations for new methods and approaches which will result in greater voluntary utilization of safety belts by the public.

"(g) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall submit a report to the Congress on July 1 of each year in which the campaign is in progress on the results of such evaluation and on the steps being taken by the Federal Highway Administration to implement the recommendations of such evaluation.

"(h) For the purpose of carrying out subsections (d), (e), (f), and (g) of this section, there is authorized to be appropriated out of the Highway Trust Fund, $10,000,000, to remain available until expended."

§ 402. Highway safety programs

(a) Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform standards promulgated by the Secretary. Such uniform standards shall be expressed in terms of performance criteria. Such uniform standards shall be promulgated by the Secretary so as to improve driver performance (including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition such uniform standards shall include, but not be limited to, provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, and emergency services. Such standards as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises

traffic operations. The Secretary shall be authorized to amend or waive standards on a temporary basis for the purpose of evaluating new or different highway safety programs instituted on an experimental, pilot, or demonstration basis by one or more States, including, but not limited to, such programs for identifying accident causes, adopting measures to reduce accidents, and evaluating effectiveness of such measures, where the Secretary finds that the public interest would be served by such amendment or waiver.

(b)(1) The Secretary shall not approve any State highway safety program under this section which does not—

(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers, and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program.

[*See main edition for text of (B) to (F)*]

(G) provide for programs (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

[*See main edition for text of (2); (c)*]

(d) All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section, and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary. In applying such provisions of chapter 1 in carrying out this section the term "State highway department" as used in such provisions shall mean the Governor of a State for the purposes of this section.

[*See main edition for text of (e) to (j)*]

(As amended Pub. L. 95-599, title II, § 207(a), (b)(1), (c), (d), Nov. 6, 1978, 92 Stat. 2731, 2732.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-599, § 207(a), added "including, but not limited to, such programs for identifying accident causes, adopting measures to reduce accidents, and evaluating effectiveness of such measures" following "one or more States".

Subsec. (b)(1)(A). Pub. L. 95-599, § 207(b)(1), substituted "State highway safety agency" for "State agency".

Subsec. (b)(1)(G). Pub. L. 95-599, § 207(c), added subpar. (G).

Subsec. (d). Pub. L. 95-599, § 207(d), added "(other than planning and administration)" following "State highway safety program" and "(other than one for planning or administration)" following "cost of any project under this section".

EFFECTIVE DATE OF 1978 AMENDMENT

Section 207(b)(2) of Pub. L. 95-599 provided that: "The amendment made by paragraph (1) of this subsection [amending subsec. (b)(1)(A) of this section] shall take effect January 1, 1979."

MOTORCYCLE HELMET STUDY

Section 210 of Pub. L. 95-599, which provided that the Secretary of Transportation make a full and complete study of the effects of the provision contained in the eighth sentence of subsec. (c) of this section and that the Secretary report the results of such study to Congress not later than one year after Nov. 6, 1978, was omitted from the Code as executed.

STUDY OF METHODS OF ENCOURAGING USE OF SAFETY BELTS IN AUTOMOBILES

Section 214 of Pub. L. 95-599, which provided that the Secretary of Transportation undertake to enter into arrangements with the National Academy of Sciences to conduct a study and investigation of methods of encouraging the use of safety belts by drivers of, and passengers in, motor vehicles and that the National Academy of Sciences report to the Secretary and the Congress not later than one year after Nov. 6, 1978, on the results of such study, was omitted from the Code as executed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 152, 154, 403, 404, 406 of this title; title 42 section 7544.

§ 403. Highway safety research and development

NATIONAL DRIVER REGISTER STUDY

Pub. L. 95-599, title II, § 204, Nov. 6, 1978, 92 Stat. 2729, which provided that the Secretary of Transportation make a full and complete investigation and study of the need for, and, if necessary, ways and means to establish, a national driver register to assist States in electronically exchanging information regarding motor vehicle driving records of certain individuals and that the Secretary issue a final report to Congress not later than one year after Nov. 6, 1978, was omitted from the Code as executed.

DETECTION AND PREVENTION OF MARIJUANA AND OTHER DRUG USE BY OPERATORS OF MOTOR VEHICLES

Pub. L. 95-599, title II, § 212, Nov. 6, 1978, 92 Stat. 2734, which provided that the Secretary report to Congress not later than Dec. 31, 1979, concerning the progress of efforts to detect and prevent marijuana and drug use by motor vehicle operators, capabilities of law enforcement officials to detect the use of marijuana and drugs by motor vehicle operators, and a description of Federal and State projects undertaken into methods of detection and prevention, was omitted from the Code as executed.

§ 406. School bus driver training

[*See main edition for text of (a) and (b)*]

(c) Not less than $7,500,000 of the sums authorized to carry out section 402 of this title for

fiscal year 1976 shall be obligated to carry out this section. Not less than $7,000,000 of the sums authorized to carry out section 402 of this title for each of the fiscal years 1977 and 1978 shall be obligated to carry out this section. All sums authorized to carry out this section shall be apportioned among the States in accordance with the formula established under subsection (c) of section 402 of this title, and shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under such subsection (c). The Federal share payable on account of any project to carry out a program under this section shall not exceed 75 per centum of the cost of the project.

(As amended Pub. L. 95-599, title I, § 129(g), Nov. 6, 1978, 92 Stat. 2708.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-599 substituted "section shall not exceed 75 per centum" for "title shall not exceed 70 per centum".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment Pub. L. 95-599 effective with respect to obligations incurred after Nov. 6, 1978, see section 129(h) of Pub. L. 95-599, set out as an Effective Date of 1978 Amendment note under section 120 of this title.

§ 407. Innovative project grants

(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.

(Added Pub. L. 95-599, title II, § 208(a), Nov. 6, 1978, 92 Stat. 2732.)